



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2021 Rhif 383 (Cy. 121) (C. 14)

2021 No. 383 (W. 121) (C. 14)

ADDYSG, CYMRU

EDUCATION, WALES

**Gorchymyn Deddf Anghenion
Dysgu Ychwanegol a'r Tribiwnlys
Addysg (Cymru) 2018 (Cychwyn
Rhif 4 a Darpariaethau Trosiannol a
Darpariaethau Arbed) 2021**

**The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Commencement No. 4 and
Transitional and Saving Provisions)
Order 2021**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn hwn yn dwyn i rym ddarpariaethau yn Neddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 ("y Ddeddf").

Mae'r Ddeddf yn sefydlu fframwaith statudol ar gyfer cefnogi plant a phobl ifanc ag anghenion dysgu ychwanegol. Mae hyn yn disodli'r ddeddfwriaeth sy'n ymwneud ag anghenion addysgol arbennig ac asesu plant a phobl ifanc ag anawsterau dysgu.

Daw'r darpariaethau a restrir yn erthygl 3 i rym ar 1 Medi 2021 mewn perthynas â'r rheini nad ydynt yn hŷn na'r oedran ysgol gorfodol, sy'n mynychu ysgol a gynhelir, sydd ag anghenion addysgol arbennig penodol a nodwyd ac sydd naill ai yn blant sy'n derbyn gofal neu sydd wedi cofrestru mewn sefydliad arall. Daw'r darpariaethau hefyd i rym ar gyfer y rheini nad ydynt yn hŷn na'r oedran ysgol gorfodol ac sy'n mynychu uned cyfeirio disgyblion ac sydd ag anghenion addysgol arbennig penodol a nodwyd. Mae'n eithrio rhai eraill sy'n ymwneud â'r fframwaith statudol presennol, gan gynnwys y rheini sydd â datganiad anghenion addysgol arbennig.

Mae erthygl 1 yn cynnwys diffiniadau, gan gynnwys y "gyfraith newydd" yn y Ddeddf a'r "hen gyfraith" yn Rhan 4 o Ddeddf Addysg 1996. Hyd nes y caiff plentyn ei drosglwyddo i'r gyfraith newydd, bydd yr hen gyfraith yn parhau i fod yn gymwys i'r plentyn ac ni fydd y gyfraith newydd yn cael effaith.

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, who have certain identified special educational needs and who are either looked after children or registered at another institution. The provisions also come into force for those who are not over compulsory school age and who attend a pupil referral unit and have certain 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.

Mae'r Gorchymyn hwn yn trosglwyddo plentyn i'r gyfraith newydd gan ddbynnu ar grŵp blwyddyn y plentyn mewn blwyddyn ysgol benodol (erthyglau 5 a 6). Er enghraifft, bydd plentyn sydd mewn dosbarth meithrin neu sydd ym mlwyddyn 1, 3, 5, 7 neu 10 ar 1 Medi 2021 yn trosglwyddo i'r gyfraith newydd ar 1 Medi 2021. Bydd plentyn sydd mewn dosbarth meithrin neu sydd ym mlwyddyn 1, 5, 9 neu 10 yn ystod y flwyddyn ysgol 2022-2023 yn trosglwyddo i'r gyfraith newydd ar 1 Medi 2022. Bydd unrhyw blentyn a oedd ag anghenion addysgol arbennig a nodwyd ar 1 Medi 2021 ac na throsglwyddodd i'r gyfraith newydd yn rhinwedd erthygl 5 neu 6, yn trosglwyddo i'r gyfraith newydd ar 1 Medi 2023 (erthygl 7).

Gall plentyn ag anghenion addysgol arbennig a nodwyd neu riant y plentyn ofyn i'r person priodol benderfynu o dan Ran 2 o'r Ddeddf a oes gan y plentyn anghenion dysgu ychwanegol. Bydd cais o'r fath yn sbarduno trosglwyddiad i'r gyfraith newydd (erthygl 8).

Wrth lunio cynllun datblygu unigol ar gyfer plentyn ag anghenion addysgol arbennig a nodwyd, rhaid rhoi sylw i'r ddarpariaeth addysgol arbennig yr oedd y plentyn yn ei chael yn union cyn y gwnaed y penderfyniad o dan Ran 2 o'r Ddeddf fod gan y plentyn anghenion dysgu ychwanegol (erthygl 9).

NODYN AM Y GORCHMYNION CYCHWYN CYNHARACH

Mae'r darpariaethau a ganlyn o'r Ddeddf wedi eu dwyn i rym drwy Orchymyn Cychwyn a wnaed cyn dyddiad y Gorchymyn hwn(1):

| <i>Y Ddarpariaeth</i> | <i>Y Dyddiad Cychwyn</i> | <i>Rhif O.S.</i> |
|-----------------------|--------------------------|---------------------------------|
| Adran 4 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) |
| Adran 5 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) |
| Adran 7 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) |
| Adran 8 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) |
| Adran 15 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) |

(1) *Gweler* Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 2) 2021 (O.S. 2021/373 (Cy. 116) (C. 12)) a Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 3 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021 (O.S. 2021/381 (Cy. 120) (C. 13)) sy'n dwyn i rym ddarpariaethau at ddibenion penodol ar yr un dyddiad â'r Gorchymyn hwn.

This Order transfers a child to the new law depending on the child's year group in a particular school year (articles 5 and 6). For example, a child who on 1 September 2021 is in a nursery class or in year 1, 3, 5, 7 or 10 will transfer to the new law on 1 September 2021. A child who is in a nursery class or in year 1, 5, 9 or 10 during the school year 2022-2023 will transfer to the new law on 1 September 2022. Any child who had identified special educational needs on 1 September 2021 and who did not transfer to the new law by virtue of article 5 or 6, will transfer to the new law on 1 September 2023 (article 7).

A child with identified special educational needs or the child's parent can request that the appropriate person decides under Part 2 of the Act whether the child has additional learning needs. Such a request will trigger a transfer to the new law (article 8).

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 decision was made under Part 2 of the Act that the child has additional learning needs (article 9).

NOTE AS TO EARLIER COMMENCEMENT

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order(1):

| <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) |
| Section 15 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |

(1) *See* the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No.2) Order 2021 (S.I. 2021/373 (W. 116) (C. 12)) and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No.3 and Transitional and Saving Provisions) Order 2021 (S.I. 2021/381 (W. 120) (C. 13)) which bring provisions into force for certain purposes on the same date as this Order.

| | | | | | |
|-----------------------|-----------------|---------------------------------|------------------------|-----------------|--------------------------------|
| Adran 16 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 16 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 21 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 21 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 32 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 32 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 36 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 36 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 37 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 37 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 39 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 39 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 45 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 45 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 46 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 46 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 47 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 47 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 54 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 54 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 56 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 56 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 56(1) | 4 Ionawr 2021 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 56(1) | 4 January 2021 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 56(4) i (6) | 4 Ionawr 2021 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 56(4) to (6) | 4 January 2021 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 60 | 4 Ionawr 2021 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 60 | 4 January 2021 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 61 | 4 Ionawr 2021 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 61 | 4 January 2021 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 62 | 4 Ionawr 2021 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 62 | 4 January 2021 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 65 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 65 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 67 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 67 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 74 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 74 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 75 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 75 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 76 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 76 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 77 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 77 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 82 | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 82 | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 83 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 83 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 85 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 85 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 91 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 91 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 92 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 92 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |

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|---|-----------------|---------------------------------|--|-----------------|--------------------------------|
| Adran 95 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 95 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Adran 96 (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 267)(C. 33) | Section 96 (partially) | 2 November 2020 | S.I. 2020/1182 (W. 267)(C. 33) |
| Yr Atodlen, paragraff 19(1), (4) a (5)(g) ac (h) (yn rhannol) | 2 Tachwedd 2020 | O.S. 2020/1182 (Cy. 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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ADDYSG, CYMRU

EDUCATION, WALES

Gorchymyn Deddf Anghenion
Dysgu Ychwanegol a'r Tribiwnlys
Addysg (Cymru) 2018 (Cychwyn
Rhif 4 a Darpariaethau Trosiannol a
Darpariaethau Arbed) 2021

The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Commencement No. 4 and
Transitional and Saving Provisions)
Order 2021

Gwnaed

22 Mawrth 2021

Made

22 March 2021

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adran 100(3) a (4) o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018(1), yn gwneud y Gorchymyn a ganlyn:

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(1), make the following Order:

Enwi a dehongli

Title and interpretation

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 4 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021.

1.—(1) The title of this Order is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 4 and Transitional and Saving Provisions) Order 2021.

(2) Yn y Gorchymyn hwn—

mae i “addysg feithrin” yr un ystyr â “nursery education” yn adran 117 o Ddeddf Safonau a Fframwaith Ysgolion 1998;

mae i “anhawster dysgu” yr un ystyr â “learning difficulty” yn—

(i) adran 312(2)(2) o Ddeddf 1996—

(aa) mewn perthynas â phlentyn yn ardal awdurdod lleol yng Nghymru ond nid plentyn sy'n ddisgybl cofrestredig mewn ysgol brif ffrwd yn Lloegr,

(2) In this Order—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996(2);

“the 2014 Act” (“*Deddf 2014*”) means the Children and Families Act 2014(3);

“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;

(1) 2018 decc 2.

(2) Diwygiwyd gan Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22), adran 59 a pharagraffau 1 a 6 o Atodlen 2, gan Ddeddf Plant a Theuluoedd 2014 (p. 6), adran 82 a pharagraffau 1 ac 11 o Atodlen 3, gan Orchymyn Awdurdodau Addysg Lleol ac Awdurdodau Gwasanaethau Plant (Integreiddio Swyddogaethau) 2010 (O.S. 2010/1158), erthygl 5 a pharagraff 7 o Atodlen 2, gan Ddeddf Addysg 1997 (p. 44), adran 57, paragraff 23 o Atodlen 7 ac Atodlen 8.

(1) 2018 anaw 2.

(2) 1996 c. 56.

(3) 2014 c. 6.

(bb) mewn perthynas â phlentyn yn ardal awdurdod lleol yn Lloegr sy'n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru, fel pe bai "a child in the area of a local authority in Wales" wedi ei hepgor,

(ii) adran 20 o Ddeddf 2014 mewn perthynas â phlentyn yn ardal awdurdod lleol yng Nghymru sy'n ddisgybl cofrestredig mewn ysgol brif ffrwd yn Lloegr;

mae i "asesiad o anghenion AIG" yr un ystyr ag "EHC needs assessment" yn adran 36(2) o Ddeddf 2014;

mae i "awdurdod lleol" yr un ystyr â "local authority" yn adran 579(1) o Ddeddf 1996;

ystyr "blwyddyn 1" ("year 1") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 6 oed;

ystyr "blwyddyn 3" ("year 3") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 8 oed;

ystyr "blwyddyn 4" ("year 4") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 9 oed;

ystyr "blwyddyn 5" ("year 5") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 10 oed;

ystyr "blwyddyn 7" ("year 7") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 12 oed;

ystyr "blwyddyn 8" ("year 8") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 13 oed;

ystyr "blwyddyn 9" ("year 9") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 14 oed;

ystyr "blwyddyn 10" ("year 10") yw grŵp blwyddyn y bydd mwyafrif y plant, yn ystod y flwyddyn ysgol, yn cyrraedd 15 oed;

mae i "blwyddyn ysgol" yr un ystyr â "school year" yn adran 579(2) o Ddeddf 1996;

ystyr "cod" ("code") yw cod ar anghenion dysgu ychwanegol a ddyroddir o dan adran 4 o'r Ddeddf;

"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)(1) 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;

"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)(2) 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)(3) of the 1996 Act;

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

(i) section 312(2)(4) 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(5) of the 1996 Act;

(1) Amnewidiwyd y diffiniad o "awdurdod lleol" gan Orchymyn Awdurdodau Addysg Lleol ac Awdurdodau Gwasanaethau Plant (Integreiddio Swyddogaethau) 2010 (O.S. 2010/1158), erthygl 3.

(2) Mewnosodwyd diffiniad o "blwyddyn ysgol" gan Ddeddf Addysg 1997 (p. 44), adran 57, paragraff 43 o Atodlen 7.

(1) 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.

(2) Inserted by 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.

(3) Inserted by 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.

(4) 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.

(5) 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.

mae i “cynllun AIG” yr un ystyr ag “EHC Plan” yn adran 37(2)(1) o Ddeddf 2014;

ystyr “cynllun datblygu unigol” (“*individual development plan*”) yw cynllun a lunnir ac a gynhelir o dan Bennod 2 o Ran 2 o’r Ddeddf;

mae i “darpariaeth addysgol arbennig” yr un ystyr â “special educational provision” yn—

(iii) adran 312(4)(2) o Ddeddf 1996—

(aa) mewn perthynas â phlentyn yn ardal awdurdod lleol yng Nghymru ond nid plentyn sy’n ddisgybl cofrestredig mewn ysgol brif ffrwd yn Lloegr,

(bb) mewn perthynas â phlentyn yn ardal awdurdod lleol yn Lloegr sy’n ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru fel pe bai “in relation to a child in the area of a local authority in Wales” wedi ei hepgor,

(iv) adran 21 o Ddeddf 2014 mewn perthynas â phlentyn yn ardal awdurdod lleol yng Nghymru sy’n ddisgybl cofrestredig mewn ysgol brif ffrwd yn Lloegr;

ystyr “Deddf 1996” (“*the 1996 Act*”) yw Deddf Addysg 1996(3);

ystyr “Deddf 2014” (“*the 2014 Act*”) yw Deddf Plant a Theuluoedd 2014(4);

mae i “disgybl cofrestredig” yr un ystyr â “registered pupil” yn adran 434(5) o Ddeddf 1996;

mae i “diwrnod ysgol” yr un ystyr â “school day” yn adran 579(1) o Ddeddf 1996;

ystyr “dosbarth meithrin” (“*nursery class*”) yw dosbarth o ddisgyblion y mae addysg feithrin yn cael ei darparu iddynt;

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Anghenion Dysgu Ychwanegol a’r Tribiwnlys Addysg (Cymru) 2018;

ystyr “grŵp blwyddyn” (“*year group*”) yw grŵp o blant mewn ysgol y bydd y mwyafrif ohonynt,

“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 brif ffrwd*”) 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(1);

“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;

“pupil referral unit” (“*uned cyfeirio disgyblion*”) has the same meaning as in section 19(2)(2) of the 1996 Act;

“registered pupil” (“*disgybl cofrestredig*”) has the same meaning as in section 434(3) 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(4) of the 1996 Act;

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

(iii) section 312(4)(5) 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,

(1) Diwygiwyd gan Ddeddf Gofal 2014 a Gorchymyn Deddf Plant a Theuluoedd 2014 (Diwygiadau Canlyniadol) 2015 (O.S. 2015/914), erthygl 2 a pharagraff 97 o’r Atodlen.

(2) Diwygiwyd gan Ddeddf Plant a Theuluoedd 2014 (p. 6), adran 82 a pharagraffau 1 ac 11 o Atodlen 3, gan Orchymyn Awdurdodau Addysg Lleol ac Awdurdodau Gwasanaethau Plant (Integreiddio Swyddogaethau) 2010 (O.S. 2010/1158), erthygl 5 a pharagraff 7 o Atodlen 2, gan Ddeddf Safonau a Fframwaith Ysgolion 1998 (p. 31), adran 140 a pharagraff 71 o Atodlen 30 ac Atodlen 31.

(3) 1996 p. 56.

(4) 2014 p. 6.

(5) Diwygiwyd gan Ddeddf Safonau a Fframwaith Ysgolion 1998 (p. 31), adran 140 a pharagraff 111 o Atodlen 30 a chan Orchymyn Awdurdodau Addysg Lleol ac Awdurdodau Gwasanaethau Plant (Integreiddio Swyddogaethau) 2010 (O.S. 2010/1158), erthygl 3.

(1) 1998 c. 31.

(2) Amended by the Children and Families Act 2014 (c. 6), section 25 and paragraph 1 of Schedule 3.

(3) 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.

(4) Definition of “school year” was inserted by the Education Act 1997 (c. 44), section 57, paragraph 43 of Schedule 7.

(5) 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.

mewn blwyddyn ysgol benodol, yn cyrraedd yr un oedran;

mae i “oedran ysgol gorfodol” yr un ystyr â “compulsory school age” yn adran 8 o Ddeddf 1996;

ystyr “plentyn” (“*child*”) yw person nad yw’n hŷn na’r oedran ysgol gorfodol;

mae i “plentyn sy’n derbyn gofal” (“*looked after child*”) yr un ystyr â phlentyn yn derbyn gofal gan awdurdod lleol yn adran 15 o’r Ddeddf;

ystyr “Rheolau’r Tribiwnlys” (“*Tribunal Rules*”) yw Rheoliadau Tribiwnlys Anghenion Addysgol Arbennig Cymru 2012(1);

mae i “rhiant” yr un ystyr â “parent” yn adran 576 o Ddeddf 1996;

mae i “sefydliad yn y sector addysg bellach” (“*institution in the further education sector*”) yr un ystyr ag yn adran 99 o’r Ddeddf;

ystyr “Tribiwnlys” (“*Tribunal*”) yw Tribiwnlys Addysg Cymru(2);

mae i “uned cyfeirio disgyblion” yr un ystyr â “pupil referral unit” yn adran 19(2)(3) o Ddeddf 1996;

mae i “yn ardal awdurdod lleol yng Nghymru” yr un ystyr ag “in the area of a local authority in Wales” yn adran 579(3B)(4) o Ddeddf 1996;

mae i “yn ardal awdurdod lleol yn Lloegr” yr un ystyr ag “in the area of a local authority in England” yn adran 579(3A)(5) o Ddeddf 1996;

ystyr “ysgol a gynhelir” (“*maintained school*”) yw unrhyw ysgol gymunedol, sefydledig neu wirfoddol, unrhyw ysgol feithrin a gynhelir, neu unrhyw ysgol arbennig gymunedol nad yw wedi ei sefydlu mewn ysbyty o fewn ystyr Deddf Safonau a Fframwaith Ysgolion 1998(6);

mae i “ysgol brif ffrwd” yr un ystyr â “mainstream school” yn adran 83(2) o Ddeddf 2014.

(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,

(iv) 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(1);

“Tribunal Rules” (“*Rheolau’r Tribiwnlys*”) means Special Educational Needs Tribunal for Wales Regulations 2012(2);

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

(1) O.S. 2012/322 (Cy. 53).

(2) Arferai Tribiwnlys Addysg Cymru gael ei alw’n Dribiwnlys Anghenion Addysgol Arbennig Cymru. *Gweler* adran 91 o Ddeddf Anghenion Dysgu Ychwanegol a’r Tribiwnlys Addysg (Cymru) 2018.

(3) Diwygiwyd gan Ddeddf Plant a Theuluoedd 2014 (p. 6) adran 25 a pharagraff 1 o Atodlen 3.

(4) Mewnosodwyd gan Ddeddf Plant a Theuluoedd 2014 (p. 6), adran 82 a pharagraffau 1 a 59 o Atodlen 3 a diwygiwyd gan adran 95 o’r Ddeddf.

(5) Mewnosodwyd gan Ddeddf Plant a Theuluoedd 2014 (p. 6), adran 82 a pharagraffau 1 a 59 o Atodlen 3 a diwygiwyd gan adran 95 o’r Ddeddf.

(6) 1998 p. 31.

(1) 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.

(2) S.I. 2012/322 (W. 53).

(3) Mae cyfeiriadau yn y Gorchymyn hwn at “yr hen gyfraith” yn gyfeiriadau at Bennod 1 o Ran 4 o Ddeddf 1996 ond ac eithrio—

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

(4) Mae cyfeiriadau yn y Gorchymyn hwn at “y gyfraith newydd” yn gyfeiriadau at—

- (a) y Ddeddf,
- (b) rheoliad neu'r cod a wneir o dan y Ddeddf honno, ac
- (c) unrhyw ddarpariaeth arall o Ddeddf neu a wneir o dan Ddeddf sy'n cael effaith at ddibenion y canlynol neu mewn perthynas â'r canlynol—
 - (i) darpariaeth o'r Ddeddf honno neu reoliadau neu god o'r fath, neu
 - (ii) person y mae'r Ddeddf honno neu reoliadau neu god o'r fath yn gymwys iddo.

(5) At ddibenion y Gorchymyn hwn dyfernir yn derfynol ar apêl—

- (a) os caiff penderfyniad ei wneud gan driwlynys neu lys ar yr apêl, a
- (b) os caniateir gwneud cais i adolygu'r penderfyniad neu os caniateir ei apelio ymhellach, daw'r cyfnod (neu bob un o'r cyfnodau) ar gyfer gwneud hynny i ben heb fod cais am adolygiad wedi ei wneud neu apêl bellach wedi ei dwyn.

(6) At ddibenion y Gorchymyn hwn, mae awdurdod lleol yn gyfrifol am blentyn os yw yn ardal yr awdurdod.

Ystyr anghenion addysgol arbennig a nodwyd

2.—(1) At ddibenion y Gorchymyn hwn, mae gan blentyn (“P”) “anghenion addysgol arbennig a nodwyd” os yw P yn ddisgybl cofrestredig—

- (a) mewn ysgol a gynhelir yng Nghymru ac yn blentyn sy'n derbyn gofal ond nid yn blentyn sy'n derbyn gofal sydd yn ardal awdurdod lleol yn Lloegr;
- (b) mewn uned cyfeirio disgyblion yng Nghymru; neu
- (c) mewn ysgol a gynhelir yng Nghymru ac—
 - (i) yn ddisgybl cofrestredig neu'n fyfyrwr sydd wedi ymrestru mewn sefydliad arall (a bod y sefydliad hwnnw yn ysgol neu'n sefydliad yn y sector addysg bellach); a

(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.

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—

- (a) at a maintained school in Wales and is a looked after child but not a looked after child who is in the area of a local authority in England;
- (b) at a pupil referral unit in Wales; or
- (c) at a maintained school in Wales 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) y mae awdurdod lleol yng Nghymru yn gyfrifol am P;

a bod ganddo anhawster dysgu a nodwyd gan gorff llywodraethu'r ysgol neu'r uned y mae'r plentyn yn ddisgybl cofrestredig ynddi sy'n galw am wneud darpariaeth addysgol arbennig ar gyfer P.

(2) Ond nid yw'n cynnwys plentyn—

- (a) y mae awdurdod lleol yn cynnal datganiad mewn perthynas ag ef o dan adran 324 o Ddeddf 1996;
- (b) y mae awdurdod lleol yn cynnal cynllun AIG mewn perthynas ag ef;
- (c) y mae awdurdod lleol wedi cyflwyno hysbysiad mewn perthynas ag ef o dan adran 323 o Ddeddf 1996 ac nad yw'r asesiad wedi cychwyn ac nad oes hysbysiad wedi ei roi o dan adran 323(6) o Ddeddf 1996;
- (d) y mae cais wedi ei wneud mewn perthynas ag ef o dan adran 329 neu 329A o Ddeddf 1996 am asesiad o dan adran 323 o Ddeddf 1996 ac nad yw'r awdurdod lleol wedi penderfynu pa un ai i asesu ai peidio;
- (e) y mae cais wedi ei wneud mewn perthynas ag ef o dan adran 329 neu 329A o Ddeddf 1996 am asesiad o dan adran 323 o Ddeddf 1996 a bod yr awdurdod lleol yn penderfynu peidio â chydymffurfio â'r cais ac—
 - (i) nad yw'r amser y mae rhaid i apêl o dan adran 329(2) neu 329A(8) o Ddeddf 1996 gael ei dwyn ynddo o dan Ran B o Reolau'r Tribiwnlys wedi dod i ben;
 - (ii) bod apêl wedi ei dwyn i'r Tribiwnlys o dan adran 329(2) neu 329A(8) o Ddeddf 1996 mewn perthynas â'r penderfyniad hwnnw ond na ddyfarnwyd yn derfynol arni; neu
 - (iii) dyfarnwyd yn derfynol ar apêl i'r Tribiwnlys o dan adran 329(2) neu 329A(8) o Ddeddf 1996 mewn perthynas â'r penderfyniad hwnnw a gorchmynnwyd i'r awdurdod lleol drefnu asesiad, ac nad yw'r asesiad hwnnw wedi cychwyn;
- (f) y mae awdurdod lleol yn ymgymryd ag asesiad o anghenion addysgol mewn perthynas ag ef o dan adran 323 o Ddeddf 1996;
- (g) y mae awdurdod lleol yn bwriadu peidio â gwneud datganiad mewn perthynas ag ef yn dilyn asesiad ac—

- (ii) a local authority in Wales is responsible for C;

and has a learning difficulty identified by the governing body of the school or unit at which the child is a registered pupil 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) 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;
- (d) 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;
- (e) 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;
- (f) in relation to whom a local authority is undertaking an assessment of educational needs under section 323 of the 1996 Act;
- (g) in relation to whom a local authority proposes not to make a statement following an assessment and—

- (i) nad yw'r amser y mae rhaid i apêl o dan adran 325(2) o Ddeddf 1996 gael ei dwyn ynddo o dan Ran B o Reolau'r Tribiwnlys wedi dod i ben;
- (ii) bod apêl wedi ei dwyn i'r Tribiwnlys o dan adran 325(2) o Ddeddf 1996 mewn perthynas â'r penderfyniad hwnnw ond na ddyfarnwyd yn derfynol arni;
- (iii) dygwyd apêl i'r Tribiwnlys o dan adran 325(2) o Ddeddf 1996 mewn perthynas â'r penderfyniad hwnnw a dyfarnwyd yn derfynol arni a gorchmynnwyd i'r awdurdod lleol—
 - (aa) gwneud a chynnal datganiad ac nad yw'r broses o wneud y datganiad wedi cychwyn; neu
 - (bb) ailystyried ei benderfyniad ac nad yw'r ailystyried hwnnw wedi cychwyn;
- (h) y mae rhaid i awdurdod lleol wneud datganiad mewn perthynas ag ef o dan adran 324 o Ddeddf 1996 ond nad yw'r broses o wneud y datganiad wedi cychwyn;
- (i) y mae awdurdod lleol wedi penderfynu peidio â chynnal datganiad mewn perthynas ag ef o dan baragraff 11(1) o Atodlen 27 i Ddeddf 1996 mwyach ac—
 - (i) nad yw'r amser y mae rhaid i apêl o dan baragraff 11(2)(b) o'r Atodlen honno gael ei dwyn ynddo o dan Ran B o Reolau'r Tribiwnlys wedi dod i ben; neu
 - (ii) bod apêl wedi ei dwyn i'r Tribiwnlys o dan baragraff 11(2)(b) o'r Atodlen honno mewn perthynas â'r penderfyniad hwnnw ond na ddyfarnwyd yn derfynol arni;
- (j) y mae asesiad mewn perthynas ag ef o dan adran 331 o Ddeddf 1996 yn mynd rhagddo;
- (k) nad yw'n hŷn na'r oedran ysgol gorfodol ond y mae asesiad mewn perthynas ag ef o dan adran 140 o Ddeddf Dysgu a Sgiliau 2000(1)—
 - (i) yn mynd rhagddo; neu
 - (ii) wedi arwain at adroddiad ar anghenion addysgol a hyfforddi y person a'r ddarpariaeth sy'n ofynnol i'w diwallu;
- (l) y mae cais wedi ei wneud mewn perthynas ag ef i awdurdod lleol i sicrhau asesiad o anghenion AIG o dan adran 36(1) o Ddeddf 2014 ac nad yw'r awdurdod lleol wedi penderfynu ar y cais hwnnw o dan adran 36(3);
- (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;
- (h) 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;
- (i) 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;
- (j) in relation to whom an assessment under section 331 of the 1996 Act is ongoing;
- (k) who is not over compulsory school age but in relation to whom an assessment under section 140 of the Learning and Skills Act 2000(1)—
 - (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;
- (l) 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);

(1) 2000 p. 21.

(1) 2000 c. 21.

- (m) y mae awdurdod lleol wedi penderfynu, o dan adran 36, beidio â sicrhau asesiad o anghenion AIG mewn perthynas ag ef ac—
- (i) nad yw'r cyfnod ar gyfer dilyn cyfryngu mewn perthynas â'r penderfyniad hwnnw o dan adran 52 o Ddeddf 2014 wedi dod i ben;
 - (ii) bod cyfryngu o dan adran 55 o Ddeddf 2014 yn mynd rhagddo mewn perthynas â'r penderfyniad hwnnw;
 - (iii) bod tystysgrif gyfryngu wedi ei dyroddi o dan adran 55(4) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw ac nad yw'r cyfnod ar gyfer cyflwyno apêl i'r Tribiwnlys Haen Gyntaf o dan adran 51 o Ddeddf 2014 wedi dod i ben;
 - (iv) bod apêl wedi ei dwyn i'r Tribiwnlys Haen Gyntaf o dan adran 51(2)(a) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw ond na ddyfarnwyd yn derfynol arni;
 - (v) bod apêl wedi ei dwyn i'r Tribiwnlys Haen Gyntaf o dan adran 51(2)(a) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw a dyfarnwyd yn derfynol arni a gorchmynnwyd i'r awdurdod lleol drefnu asesiad neu ailasesiad, ac nad yw'r asesiad hwnnw neu'r ailasesiad hwnnw wedi cychwyn;
- (n) y mae awdurdod lleol wedi cyflwyno hysbysiad mewn perthynas ag ef o dan adran 36(7) o Ddeddf 2014 ei fod yn ystyried sicrhau asesiad o anghenion AIG ac—
- (i) nad yw'r asesiad wedi cychwyn,
 - (ii) bod yr asesiad yn mynd rhagddo, neu
 - (iii) nad oes hysbysiad wedi ei gyflwyno o dan adran 36(9) o Ddeddf 2014;
- (o) y mae awdurdod lleol wedi penderfynu o dan adran 36(9) o Ddeddf 2014 nad yw'n angenrheidiol gwneud darpariaeth addysgol arbennig yn unol â chynllun AIG mewn perthynas ag ef ac—
- (i) nad yw'r cyfnod ar gyfer dilyn cyfryngu mewn perthynas â'r penderfyniad hwnnw o dan adran 52 o Ddeddf 2014 wedi dod i ben;
 - (ii) bod cyfryngu o dan adran 55 o Ddeddf 2014 yn mynd rhagddo mewn perthynas â'r penderfyniad hwnnw;
- (m) in relation to whom a local authority has determined under section 36 not to secure an EHC needs assessment 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)(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;
- (n) 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;
- (o) 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) bod tystysgrif gyfryngu wedi ei dyroddi o dan adran 55(4) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw ac nad yw'r cyfnod ar gyfer cyflwyno apêl i'r Tribiwnlys Haen Gyntaf o dan adran 51 o Ddeddf 2014 wedi dod i ben;
- (iv) bod apêl wedi ei dwyn i'r Tribiwnlys Haen Gyntaf o dan adran 51(2)(b) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw ond na ddyfarnwyd yn derfynol arni;
- (v) bod apêl wedi ei dwyn i'r Tribiwnlys Haen Gyntaf o dan adran 51(2)(b) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw a dyfarnwyd yn derfynol arni a gorchmynnwyd i'r awdurdod lleol—
 - (aa) gwneud a chynnal cynllun AIG ac nad yw'r broses o wneud y cynllun AIG wedi cychwyn; neu
 - (bb) ailystyried ei benderfyniad ac nad yw'r ailystyried hwnnw wedi cychwyn;
- (p) y mae awdurdod lleol wedi penderfynu o dan adran 36(9) o Ddeddf 2014 ei bod yn angenrheidiol gwneud darpariaeth addysgol arbennig yn unol â chynllun AIG mewn perthynas ag ef ond nad yw'r cynllun hwnnw wedi ei lunio;
- (q) y mae awdurdod lleol wedi penderfynu o dan adran 45 o Ddeddf 2014 nad yw'n angenrheidiol mwyach gynnal cynllun AIG mewn perthynas ag ef ac—
 - (i) nad yw'r cyfnod ar gyfer dilyn cyfryngu mewn perthynas â'r penderfyniad hwnnw o dan adran 52 o Ddeddf 2014 wedi dod i ben;
 - (ii) bod cyfryngu o dan adran 55 o Ddeddf 2014 yn mynd rhagddo mewn perthynas â'r penderfyniad hwnnw;
 - (iii) bod tystysgrif gyfryngu wedi ei dyroddi o dan adran 55(4) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw ac nad yw'r cyfnod ar gyfer cyflwyno apêl i'r Tribiwnlys Haen Gyntaf o dan adran 51 o Ddeddf 2014 wedi dod i ben;
 - (iv) bod apêl wedi ei dwyn i'r Tribiwnlys Haen Gyntaf o dan adran 51(2)(f) o Ddeddf 2014 mewn perthynas â'r penderfyniad hwnnw ond na ddyfarnwyd yn derfynol arni.
- (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;
- (p) 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;
- (q) 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.

Y darpariaethau sy'n dod i rym ar 1 Medi 2021

3. Daw'r darpariaethau a ganlyn o'r Ddeddf i rym ar 1 Medi 2021 mewn perthynas â phlentyn sydd ag anghenion addysgol arbennig a nodwyd ar 1 Medi 2021—

- (a) adrannau 2 i 4;
- (b) adrannau 6 i 14;
- (c) adrannau 16 i 36;
- (d) adran 38;
- (e) adrannau 40 i 44;
- (f) adrannau 47 i 49;
- (g) adran 50(1) at ddibenion y darpariaethau ym mharagraff (h);
- (h) adran 50(4) i (5);
- (i) adrannau 51 i 53;
- (j) adran 55;
- (k) adran 59;
- (l) adrannau 63 i 66;
- (m) adrannau 68 i 69;
- (n) adran 96 at ddibenion y darpariaethau ym mharagraff (o);
- (o) yn yr Atodlen—
 - (i) paragraff 1;
 - (ii) paragraff 4(1) at ddibenion y darpariaethau yn is-baragraffau (iii) i (x);
 - (iii) paragraff 4(2) i 4(8);
 - (iv) paragraff 4(9);
 - (v) paragraff 4(10);
 - (vi) paragraff 4(13) i 4(18);
 - (vii) paragraff 4(19)(b);
 - (viii) paragraff 4(20) a 4(21);
 - (ix) paragraff 4(23) i 4(29);
 - (x) paragraff 4(32)(a)(i) a (ii) a pharagraff 4(32)(b);
 - (xi) paragraff 7;
 - (xii) paragraff 8;
 - (xiii) paragraff 11(a);
 - (xiv) paragraff 12(a);
 - (xv) paragraff 14(1) at ddibenion y darpariaethau yn is-baragraff (xvi);
 - (xvi) paragraff 14(2) a (3);
 - (xvii) paragraff 19(1) at ddiben y ddarpariaeth yn is-baragraff (xviii);
 - (xviii) paragraff 19(5)(e)(ii);

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;
 - (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) paragraff 21(1) at ddibenion y darpariaethau yn is-baragraff (xx);
- (xx) paragraff 21(2)(a)(i) a (2)(b)(ii);
- (xxi) paragraff 22;
- (xxii) paragraff 23(1) at ddiben y ddarpariaeth yn is-baragraff (xxiii);
- (xxiii) paragraff 23(4);
- (xxiv) paragraff 24(1) at ddibenion y darpariaethau yn is-baragraff (xxv);
- (xxv) paragraff 24(2) i (3), (5) a (6)(a).

- (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).

Darpariaeth arbed

4. Yn ddarostyngedig i erthyglau 5, 6, 7 ac 8, er bod Pennod 1 o Ran 4 o Ddeddf 1996(1) wedi ei datgymhwyso gan adran 96 o'r Ddeddf a pharagraff 4(9) o'r Atodlen iddi mewn perthynas â phlentyn sydd ag anghenion addysgol arbennig a nodwyd—

- (a) mae'r hen gyfraith yn parhau i gael effaith mewn perthynas â'r plentyn hwnnw; a
- (b) nid yw'r gyfraith newydd yn cael effaith mewn perthynas â'r plentyn hwnnw.

Cymhwyso'r gyfraith newydd

5.—(1) Mae'r erthygl hon yn gymwys i blentyn sydd ag anghenion addysgol arbennig a nodwyd ar 1 Medi 2021 ac sydd mewn dosbarth meithrin neu ym mlwyddyn 1, blwyddyn 3, blwyddyn 5, blwyddyn 7 neu flwyddyn 10 ar ddechrau'r flwyddyn ysgol 2021-2022.

(2) Mae'r gyfraith newydd yn gymwys mewn perthynas â'r plentyn ar ddechrau'r flwyddyn ysgol 2021-2022.

(3) Mae'r hen gyfraith yn peidio â bod yn gymwys mewn perthynas â'r plentyn ar ddechrau'r flwyddyn ysgol 2021-2022.

6.—(1) Yn ddarostyngedig i erthygl 8, mae'r erthygl hon yn gymwys i blentyn sydd ag anghenion addysgol arbennig a nodwyd ar 1 Medi 2021 ac sydd mewn dosbarth meithrin neu ym mlwyddyn 1, blwyddyn 5, blwyddyn 9 neu flwyddyn 10 ar ddechrau'r flwyddyn ysgol 2022-2023.

(2) Mae'r gyfraith newydd yn gymwys mewn perthynas â'r plentyn ar ddechrau'r flwyddyn ysgol 2022-2023.

(3) Mae'r hen gyfraith yn peidio â bod yn gymwys mewn perthynas â'r plentyn ar ddechrau'r flwyddyn ysgol 2022-2023.

Saving provision

4. Subject to articles 5, 6, 7 and 8, 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(1) 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.

Application of new law

5.—(1) This article applies to a child who on 1 September 2021 has identified special educational needs and who at the start of the 2021-2022 school year is in a nursery class, year 1, year 3, year 5, year 7 or year 10.

(2) The new law applies in relation to the child at the start of the 2021-2022 school year.

(3) The old law ceases to apply in relation to the child at the start of the 2021-2022 school year.

6.—(1) Subject to article 8, this article applies to a child who on 1 September 2021 has identified special educational needs and who at the start of the 2022-2023 school year is in a nursery class, year 1, year 5, year 9 or year 10 .

(2) The new law applies in relation to the child at the start of the 2022-2023 school year.

(3) The old law ceases to apply in relation to the child at the start of the 2022-2023 school year.

(1) Gweler erthygl 3 o'r Gorchymyn hwn a gychwynnodd y darpariaethau hynny.

(1) See article 3 of this Order which commenced those provisions.

7.—(1) Yn ddarostyngedig i erthygl 8, mae'r erthygl hon yn gymwys i blentyn sydd ag anghenion addysgol arbennig a nodwyd ar 1 Medi 2021 ac nad oedd erthygl 5 na 6 yn gymwys iddo.

(2) Mae'r gyfraith newydd yn gymwys mewn perthynas â'r plentyn ar ddechrau'r flwyddyn ysgol 2023-2024.

(3) Mae'r hen gyfraith yn peidio â bod yn gymwys mewn perthynas â'r plentyn ar ddechrau'r flwyddyn ysgol 2023-2024.

Hawl i ofyn am benderfyniad ynghylch a oes gan blentyn anghenion dysgu ychwanegol

8.—(1) Caiff plentyn, sydd ag anghenion addysgol arbennig a nodwyd ar 1 Medi 2021 neu riant y plentyn hwnnw, ofyn i'r person priodol benderfynu o dan Ran 2 o'r Ddeddf a oes gan y plentyn anghenion dysgu ychwanegol.

(2) Mae'r gyfraith newydd yn gymwys mewn perthynas â'r plentyn ar y dyddiad y daw'r cais i law.

(3) Mae'r hen gyfraith yn peidio â bod yn gymwys mewn perthynas â'r plentyn ar y dyddiad hwnnw.

(4) Yn yr erthygl hon—

(a) ystyr “person priodol” yw—

(i) yr awdurdod lleol yng Nghymru sy'n gyfrifol am y plentyn pan fo'r plentyn hwnnw yn ddisgybl cofrestredig mewn ysgol a gynhelir yng Nghymru neu mewn uned cyfeirio disgyblion yng Nghymru ac—

(aa) yn blentyn sy'n derbyn gofal;

(bb) yn ddisgybl cofrestredig neu'n fyfyrwr sydd wedi ymrestru mewn sefydliad arall (a bod y sefydliad hwnnw yn ysgol neu'n sefydliad yn y sector addysg bellach) a bod awdurdod lleol yng Nghymru yn gyfrifol am y plentyn;

(ii) pwyllgor rheoli'r uned cyfeirio disgyblion y mae'r plentyn yn ddisgybl cofrestredig ynddi os nad yw'r plentyn yn dod o fewn paragraff (i)(aa) neu (bb);

(b) ystyr “pwyllgor rheoli” yw pwyllgor rheoli a sefydlir ar gyfer uned cyfeirio disgyblion yn rhinwedd paragraff 15 o Atodlen 1 i Ddeddf 1996.

7.—(1) Subject to article 8, this article applies to a child who on 1 September 2021 has identified special educational needs and to whom article 5 or 6 did not apply.

(2) The new law applies in relation to the child at the start of the 2023-2024 school year.

(3) The old law ceases to apply in relation to the child at the start of the 2023-2024 school year.

Right to ask for a decision whether a child has additional learning needs

8.—(1) A child, who on 1 September 2021 has identified special educational needs or that child's parent, may request that the appropriate person decides under Part 2 of the Act whether the child has additional learning needs.

(2) The new law applies in relation to the child on the date that the request is received.

(3) The old law ceases to apply in relation to the child on that date.

(4) In this article—

(a) the “appropriate person” means—

(i) the local authority in Wales which is responsible for the child where that child is a registered pupil at a maintained school in Wales or a pupil referral unit in Wales and is—

(aa) a looked after child;

(bb) a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector) and a local authority in Wales is responsible for the child;

(ii) the management committee of the pupil referral unit at which the child is a registered pupil if the child does not come within paragraph (i)(aa) or (bb);

(b) the “management committee” means a management committee established for a pupil referral unit by virtue of paragraph 15 of Schedule 1 to the 1996 Act.

Sylw i ddarpariaeth addysgol arbennig wrth lunio cynllun datblygu unigol

9. Wrth lunio cynllun datblygu unigol am y tro cyntaf ar gyfer plentyn sydd ag anghenion dysgu ychwanegol a nodwyd ar 1 Medi 2021, rhaid i'r corff llywodraethu neu'r awdurdod lleol (yn ôl y digwydd) roi sylw i'r ddarpariaeth addysgol arbennig a ddarparwyd i'r plentyn yn union cyn y gwnaed y penderfyniad o dan Ran 2 o'r Ddeddf fod gan y plentyn anghenion dysgu ychwanegol.

Regard to special educational provision when preparing an individual development plan

9. When preparing an individual development plan for the first time for a child who, on 1 September 2021 has identified special educational needs, 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 decision under Part 2 of the Act was made that the child has additional learning needs.

Kirsty Williams

Y Gweinidog Addysg, un o Weinidogion Cymru
22 Mawrth 2021

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Minister for Education, one of the Welsh Ministers
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