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*Status: Point in time view as at 28/04/2021.*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 No. 4 and Transitional and Saving Provisions) (Amendment) Order 2021. (See end of Document for details)*

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WELSH STATUTORY INSTRUMENTS

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**2021 No. 516 (W. 153) (C. 17)**

**EDUCATION, WALES**

**The Additional Learning Needs and Education Tribunal  
(Wales) Act 2018 (Commencement No. 3 and No. 4 and  
Transitional and Saving Provisions) (Amendment) Order 2021**

Made - - - -

28 April 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<sup>M1</sup>, make the following Order:

**Marginal Citations**

M1 2018 anaw 2.

**Title**

1. The title of this Order is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and No. 4 and Transitional and Saving Provisions) (Amendment) Order 2021.

**Commencement Information**

II Art. 1 in force at 28.4.2021

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

2. After article 16 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021<sup>M2</sup> insert—

“**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

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- (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 <sup>M3</sup>;
  - (b) “first school” means the maintained school at which the child was a registered pupil on 1 September 2021.

**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.

**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.”.

#### Commencement Information

**I2** Art. 2 in force at 28.4.2021

#### Marginal Citations

**M2** [S.I. 2021/381](#) (W. 120) (C. 13).

**M3** [S.I. 2010/1954](#) (W. 187).

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

3. For article 8 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 4 and Transitional and Saving Provisions) Order 2021 <sup>M4</sup> substitute—

#### **“Right to ask to transfer to new law**

8.—(1) A child who on 1 September 2021 has identified special educational needs, or that child's parent, may make a request to the appropriate person that the new law applies to that child.

(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, the “appropriate person” means—

(a) the local authority in Wales which is responsible for the child,

(b) where a local authority in Wales is not responsible for the child, a local authority in Wales in whose area the maintained school or the pupil referral unit at which the child is a registered pupil is located.”.

#### **Commencement Information**

**I3** Art. 3 in force at 28.4.2021

#### **Marginal Citations**

**M4** S.I. 2021/383 (W. 121) (C. 14).

*Kirsty Williams*  
Minister for Education, one of the Welsh  
Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021 (“the No 3 Commencement Order”) and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 4 and Transitional and Saving Provisions) Order 2021 (“the No 4 Commencement Order”) which bring into force provisions of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the Act”). These Commencement Orders make provision for transferring children with certain identified special educational needs to the new law set out in the Act. They contain definitions of “the new law” and “the old law” (see article 1).

This Order inserts articles 16A, 16B and 16C into the No 3 Commencement Order (article 2).

Article 16A applies to a child who ceases to be a registered pupil at the maintained school at which the child was a registered pupil on 1 September 2021 (“the first school”). The child will transfer to the new law on the date that the child ceases to be a registered pupil at the first school.

Article 16B applies to a child who also becomes a registered pupil or an enrolled student at another institution (registered at more than one setting) and for whom a local authority in Wales is responsible. The child will transfer to the new law on the date the child becomes a registered pupil or an enrolled student at another institution.

Article 16C applies to a child who becomes looked after by a local authority within the meaning of section 15 of the Act. The child will transfer to the new law on the date that the child becomes looked after by the local authority.

This Order amends the No 4 Commencement Order by substituting a new article 8 which allows a child with identified special educational needs or that child's parent to make a request to the appropriate local authority for the new law to apply to the child.

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