

This Statutory Instrument has been published in substitution of S.I. 2023/921 W. 145 (C. 53) which was incorrectly numbered.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2023 No. 932 (W. 148)

EDUCATION, WALES

The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Amendment of
Commencement Orders No. 5, No.
6, No. 8, No. 13 and No. 14) Order
2023

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the following Orders to extend the third year of implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 by one year:

- The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021;
- The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021;
- The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 8 and Transitional and Saving Provisions) Order 2022;
- the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 13 and Transitional and Saving Provisions) Order 2022;
- the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022.

These commencement orders require maintained schools (Commencement Order No. 5 and Commencement Order No. 13) and local authorities (Commencement Order No. 6, Commencement Order No. 8, Commencement Order No. 9 and Commencement Order No. 14) to give certain children an IDP notice or a No IDP notice.

This Order amends the requirement in Commencement Orders No. 5, No. 6, No. 8, No. 13 and No. 14 in relation to the 2023-2024 school year, so that the IDP notice or the No IDP notice can be given during the 2023-2024 school year or the 2024-2025 school year. This extension does not apply to children who are in year 6 or in year 10 during the 2023-2024 school year. They must be given either an IDP notice or a No IDP notice during the 2023-2024 school year.

This Order also makes amendments which are consequential on those changes.

This Statutory Instrument has been published in substitution of S.I. 2023/921 W. 145 (C. 53) which was incorrectly numbered.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2023 No. 932 (W. 148)

EDUCATION, WALES

The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Amendment of
Commencement Orders No. 5, No.
6, No. 8, No. 13 and No. 14) Order
2023

Made

21 August 2023

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), makes the following Order:

Title

1. The title of this Order is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Amendment of Commencement Orders No. 5, No. 6, No. 8, No. 13 and No. 14) Order 2023.

Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021

2.—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021(2) is amended as follows.

(2) In article 1(2), in the appropriate place, insert—

(1) 2018 anaw 2.
(2) S.I. 2021/1243 (W. 315) (C. 68) amended by S.I. 2021/1428 (W. 369) (C. 80) and S.I. 2022/663 (W. 148) (C. 37).

““year 6” (“*blwyddyn 6*”) means a year group in which the majority of children will, in the school year, attain the age of 11;”.

(3) After article 10 insert—

“**10A.**—(1) This article applies to a child who on 1 September 2023 has identified special educational needs and who is in year 6 or in year 10 during the 2023-2024 school year.

(2) Unless the new law applies in relation to the child, the governing body which provides the special educational provision to the child must either give an IDP notice or a No IDP notice to the child and the child’s parent during the 2023-2024 school year.”.

(4) In article 11—

(a) in paragraph (1), for “9 or 10” substitute “9, 10 or 10A”.

(b) in paragraph (2), after “school year” insert “or the 2024-2025 school year”.

(5) In article 13(1) after “10,” insert “10A,”.

(6) After article 16 insert—

“**16A.**—(1) This article applies to a child—

(a) who had identified special educational needs on 1 January 2022,

(b) who was in year 6 or in year 10 during the 2023-2024 school year, and

(c) in relation to whom the new law does not apply on 30 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.”.

(7) In article 17, for “2024”, in both places it occurs, substitute “2025”.

(8) In article 23(1)(a), after “10(2)” insert “, 10A(2)”.

Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021

3.—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021(1) is amended as follows.

(1) S.I. 2021/1244 (W. 316) (C. 69) amended by S.I. 2021/1428 (W. 369) (C. 80) and S.I. 2022/663 (W. 148) (C. 37).

- (2) In article 1(2), in the appropriate place, insert—
- ““year 6” (*“blwyddyn 6”*) means a year group in which the majority of children will, in the school year, attain the age of 11;”.
- (3) After article 10 insert—
- “**10A.**—(1) This article applies to a child who on 1 September 2023 has identified special educational needs and who is in year 6 or in year 10 during the 2023-2024 school year.
- (2) Unless the new law applies in relation to the child, the appropriate local authority must either give an IDP notice or a No IDP notice to the child and the child’s parent during the 2023-2024 school year.”.
- (4) In article 11—
- (a) in paragraph (1), for “9 or 10” substitute “9, 10 or 10A”;
- (b) in paragraph (2), after “school year” insert “or the 2024-2025 school year”.
- (5) In article 13(1), after “10,” insert “10A,”.
- (6) After article 16, insert—
- “**16A.**—(1) This article applies to a child—
- (a) who had identified special educational needs on 1 January 2022,
- (b) who was in year 6 or in year 10 during the 2023-2024 school year, and
- (c) in relation to whom the new law does not apply on 30 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.”.
- (7) In article 17, for “2024”, in both places it occurs, substitute “2025”.
- (8) In article 21(1)(a), after “10(2)” insert “, 10A(2)”.

Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 8 and Transitional and Saving Provisions) Order 2022

4.—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 8 and Transitional and Saving Provisions) Order 2022(1) is amended as follows.

(1) S.I. 2022/891 (W. 188) (C. 55).

(2) After article 9 insert—

“9A.—(1) This article applies to a child who on 1 September 2022 has a statement and who is in year 6 or in year 10 during the 2023-2024 school year.

(2) Unless the new law applies in relation to the child, the appropriate local authority must either give an IDP notice or a No IDP notice to the child and the child’s parent during the 2023-2024 school year.

(3) This article does not apply in relation to a child when an appeal is ongoing in relation to that child.”.

(3) In article 10—

(a) in paragraph (1), after “article 9” insert “or 9A”.

(b) in paragraph (2), after “school year” insert “or the 2024-2025 school year”.

(4) In article 11(1) after “articles 9” insert “, 9A”.

(5) In article 13(1) after “articles 9,” insert “9A,”.

(6) After article 17 insert—

“17A.—(1) This article applies to a child—

(a) who had a statement on 1 September 2022,

(b) who was in year 6 or in year 10 during the 2023-2024 school year or would be in either of those year groups if the child were a registered pupil at a maintained school,

(c) in relation to whom there is no appeal ongoing on 30 August 2024,

(d) to whom article 17B does not apply, and

(e) in relation to whom the new law does not apply on 30 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.

17B.—(1) This article applies to a child—

(a) who had a statement on 1 September 2022,

(b) who was in year 6 or in year 10 during the 2023-2024 school year or would be in either of those year groups if the child were a registered pupil at a maintained school,

- (c) where the local authority is ordered to perform an action as a result of an appeal being finally determined and the action has not been performed by 30 August 2024,
- (d) in relation to whom no further appeal is ongoing on 30 August 2024, and
- (e) in relation to whom the new law does not apply on 30 August 2024.

(2) On the transfer day—

- (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 “transfer day” means the day after which the action referred to in paragraph (1)(c) is performed, or all of the actions have been performed if there is more than one action.

17C.—(1) This article applies to a child—

- (a) who had a statement on 1 September 2022,
- (b) who was in year 6 or in year 10 during the 2023-2024 school year or would be in either of those year groups if the child were a registered pupil at a maintained school, and
- (c) in relation to whom an appeal is ongoing on 30 August 2024.

(2) On the transfer day—

- (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 “transfer day” means—

- (a) the day after the end of the period within which an appeal could be made, if no appeal has been made;
- (b) unless sub-paragraph (c) applies, the day after the appeal has been finally determined, where an appeal has been made;
- (c) where the local authority is ordered to perform an action as a result of an ongoing appeal being finally determined, the day after which the action is performed, or all of the actions have been performed if there is more than one action.”.

(7) In article 18, for “2024”, in each place it occurs, substitute “2025”.

- (8) In article 19(1), for “2024”, in each place it occurs, substitute “2025”.
- (9) In article 20(1)(b), for “2024” substitute “2025”.
- (10) In article 24(4)(a)—
 - (a) in the English language text, after “9(2),” insert “9A(2),”;
 - (b) in the Welsh language text, for “9(2) a” substitute “9(2), 9A(2),”.
- (11) In article 25(3)(a), after “9(2),” insert “9A(2),”.

Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 13 and Transitional and Saving Provisions) Order 2022

5.—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 13 and Transitional and Saving Provisions) Order 2022⁽¹⁾ is amended as follows.

(2) After article 9 insert—

“**9A.**—(1) This article applies to a child who on 1 September 2023 has identified special educational needs and who is in year 6 or in year 10 during the 2023-2024 school year.

(2) Unless the new law applies in relation to the child, the governing body which provides the special educational provision to the child must either give an IDP notice or a No IDP notice to the child and the child’s parent during the 2023-2024 school year.”.

(3) In article 10—

- (a) in paragraph (1), after “article 9” insert “or 9A”.
- (b) in paragraph (2), after “school year” insert “or the 2024-2025 school year”.

(4) In article 12(1) after “articles 9,” insert “9A,”.

(5) After article 14 insert—

“**14A.**—(1) This article applies to a child—

- (a) who had identified special educational needs on 1 September 2022,
- (b) who was in year 6 or in year 10 during the 2023-2024 school year, and
- (c) in relation to whom the new law does not apply on 30 August 2024.

(2) On 31 August 2024—

- (a) the new law applies in relation to the child, and

(1) S.I. 2022/896 (W. 193) (C. 60).

(b) the old law ceases to apply in relation to the child.”.

(6) In article 15 for “2024”, in both places it occurs, substitute “2025”.

(7) In article 21(4)(a), after “9(2)” insert “, 9A(2)”.

(8) In article 22(3)(a), after “9(2)” insert “, 9A(2)”.

Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022

6.—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022⁽¹⁾ is amended as follows.

(2) After article 9 insert—

“9A.—(1) This article applies to a child who on 1 September 2023 has identified special educational needs and who is in year 6 or in year 10 during the 2023-2024 school year or would be in either of those year groups if the child were a registered pupil at a maintained school.

(2) Unless the new law applies in relation to the child, the appropriate local authority must either give an IDP notice or a No IDP notice to the child and the child’s parent during the 2023-2024 school year.”.

(3) In article 10—

(a) in paragraph (1), after “article 9” insert “or 9A”.

(b) in paragraph (2), after “school year” insert “or the 2024-2025 school year”.

(4) In article 12(1), after “articles 9,” insert “9A,”.

(5) In article 14(1)(b), after “school year,” insert “or would be in a nursery class or any of those year groups if the child were a registered pupil at a maintained school,”.

(6) After article 14 insert—

“14A.—(1) This article applies to a child—

(a) who had identified special educational needs on 1 September 2022,

(b) who was in year 6 or in year 10 during the 2023-2024 school year or would be in either of those year groups if the child were a registered pupil at a maintained school, and

(1) S.I. 2022/897 (W. 194) (C. 61).

- (c) in relation to whom the new law does not apply on 30 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.”.
- (7) In article 15, for “2024”, in both places it occurs, substitute “2025”.
- (8) In article 20(4)(a), after “9(2)” insert “, 9A(2),”.
- (9) In article 21(3)(a), after “9(2)” insert “, 9A(2),”.

Jeremy Miles

Minister for Education and Welsh language, one of the
Welsh Ministers

21 August 2023