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## 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 2022 in relation to certain children who are engaged with the current statutory framework on 1 September 2022 but do not have a statement of special educational needs (article 2).

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 appropriate local authority to give a notice to a child (article 9). When the local authority has to give the notice depends on the child’s engagement with the current statutory framework on 1 September 2022. The date of the notice given to a particular child will be the date that child transfers to the new law.

The appropriate local authority can give the child an IDP notice or a No IDP 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 IDP 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).

A child to whom this Order applies or the child’s parent can request that an IDP notice or a No IDP notice is given (article 10).

Where an individual development plan is prepared following an IDP notice, a copy of the individual development plan must be given to the child and the child’s parent within 12 weeks of the date of the notice unless certain circumstances apply (article 11).

If the child has not transferred to the new law by 31 August 2024, articles 12 to 14 set out the date on which the old law ceases and the new law has effect in relation to the child.

Article 15 deals with the situation where the circumstances of the child change after 1 September 2022.

When preparing an individual development plan for a child to whom this Order applies, in certain circumstances regard must be had to any special educational provision the child was receiving immediately before transferring to the new law (article 16).

Article 17 reflects section 84 of the Act which provides that certain duties and conditions in that Act in relation to children (e.g. to give a child a copy of an individual development plan) do not apply if it is considered that the child does not have capacity to understand the subject matter.

Article 18 provides that certain duties and conditions in relation to parents in this Order (e.g. to give a parent an IDP notice or a No IDP notice) do not apply when the child ceases to be of compulsory school age.

**Changes to legislation:**

There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 9 and Transitional and Saving Provisions) Order 2022.