
WELSH STATUTORY INSTRUMENTS

2022 No. 896

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

Capacity of children

21.—(1) Subject to paragraph (2), paragraph (3) applies to a child who had identified special educational needs on 1 September 2022.

(2) Nothing in this article applies to a person when that person ceases to be of compulsory school age.

(3) A duty in paragraph (4) or the power in paragraph (5) does not apply if the appropriate person considers that the child does not have capacity to understand the subject matter.

(4) The duties referred to in paragraph (3) are—

- (a) the duty to give a child an IDP notice or a No IDP notice in articles 9(2) [^{F1}, 9A(2)] and 10(2);
- (b) the duty to give a notice following a request by a child under article 11;
- (c) the duty to give a child a copy of the individual development plan within 35 school days in article 12(1).

(5) The power referred to in paragraph (3) is the power to give a child an ALN notice in article 13.

(6) Where paragraph (3) applies in relation to a duty in paragraph (4)(a) or (b), the first reference to a child in article 5 is to be read as if it were omitted.

(7) Where paragraph (3) applies in relation to a duty in paragraph (4)(a) or (b), the first reference to a child in article 6 is to be read as if it were omitted.

F1 Word in art. 21(4)(a) inserted (21.8.2023) by [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 \(S.I. 2023/932\)](#), [art. 5\(7\)](#)

Commencement Information

II Art. 21 in force at made date

Changes to legislation:

There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 13 and Transitional and Saving Provisions) Order 2022, Section 21.