
Status: Point in time view as at 03/10/2005.

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SCHEDULES

SCHEDULE 1

Section 1

CHILDREN’S COMMISSIONER

Status

- 1 (1) The Children’s Commissioner is to be a corporation sole.
- (2) The Children’s Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and his property is not to be regarded as property of, or property held on behalf of, the Crown.

General powers

- 2 (1) The Children’s Commissioner may do anything which appears to him to be necessary or expedient for the purpose of, or in connection with, the exercise of his functions.
- (2) In particular he may—
 - (a) co-operate with other public authorities in the United Kingdom;
 - (b) enter into contracts; and
 - (c) acquire, hold and dispose of any property.

Appointment and tenure of office

- 3 (1) The Children’s Commissioner is to be appointed by the Secretary of State.
- (2) The Secretary of State must, to such extent and in such manner as he thinks fit, involve children in the appointment of the Children’s Commissioner.
- (3) Subject to the provisions of this paragraph, a person shall hold and vacate office as the Children’s Commissioner in accordance with the terms and conditions of his appointment as determined by the Secretary of State.
- (4) An appointment as the Children’s Commissioner shall be for a term not exceeding five years.
- (5) A person who has held office as the Children’s Commissioner is eligible for reappointment once only.
- (6) The Children’s Commissioner may at any time resign by notice in writing to the Secretary of State.
- (7) The Secretary of State may remove the Children’s Commissioner from office if he is satisfied that he has—
 - (a) become unfit or unable properly to discharge his functions; or
 - (b) behaved in a way that is not compatible with his continuing in office.

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Remuneration

- 4 The Secretary of State must—
- (a) pay the Children’s Commissioner such remuneration and allowances, and
 - (b) pay or make provision for the payment of such pension or gratuities to or in respect of him,
- as may be provided under the terms of his appointment.

Staff

- 5 (1) The Children’s Commissioner may appoint any staff he considers necessary for assisting him in the exercise of his functions, one of whom shall be appointed as deputy Children’s Commissioner.
- (2) During any vacancy in the office of Children’s Commissioner or at any time when the Children’s Commissioner is for any reason unable to act, the deputy Children’s Commissioner shall exercise his functions (and any property or rights vested in the Children’s Commissioner may accordingly be dealt with by the deputy Children’s Commissioner as if vested in him).
- (3) Without prejudice to sub-paragraph (2), any member of the Children’s Commissioner’s staff may, so far as authorised by him, exercise any of his functions.

Pensions

- 6 (1) In the Superannuation Act 1972 (c. 11), in Schedule 1 (kinds of employment etc to which section 1 of that Act applies)—
- (a) in the list of “Other Bodies”, at the end insert “ Employment by the Children’s Commissioner ”;
 - (b) in the list of “Offices”, at the appropriate place insert “ Children’s Commissioner ”.
- (2) The Secretary of State must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Funding

- 7 The Secretary of State may make payments to the Children’s Commissioner of such amounts, at such times and on such conditions (if any) as the Secretary of State considers appropriate.

Accounts

- 8 (1) The Children’s Commissioner must—
- (a) keep proper accounting records;
 - (b) prepare a statement of accounts for each financial year; and
 - (c) send a copy of each such statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as possible after the end of the financial year to which the statement relates.

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- (2) The Comptroller and Auditor General must examine, certify and report on each statement of accounts sent to him under sub-paragraph (1)(c) and must lay copies of the statement and of his report before Parliament.
- (3) In this paragraph, “financial year” means—
- (a) the period beginning with the date on which the first Children’s Commissioner is appointed and ending with 31st March next following that date; and
 - (b) each successive period of twelve months ending with 31st March.

Evidence

- 9 (1) A document purporting to be duly executed under the seal of the Children’s Commissioner or to be signed by him or on his behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.
- (2) This paragraph does not extend to Scotland.

Protection from defamation actions

- 10 For the purposes of the law of defamation—
- (a) any statement made by the Children’s Commissioner in a report published under this Part has absolute privilege; and
 - (b) any other statement made by the Children’s Commissioner or a member of his staff for the purposes of this Part has qualified privilege.

Regulated position

- 11 In the Criminal Justice and Court Services Act 2000 (c. 43), in section 36(6) (meaning of “regulated position”), after paragraph (f) insert—
- “(fa) Children’s Commissioner and deputy Children’s Commissioner appointed under Part 1 of the Children Act 2004.”.

Disqualifications

- 12 In the House of Commons Disqualification Act 1975 (c. 24), in Part 3 of Schedule 1 (certain disqualifying offices), at the appropriate places insert the following entries— “Children’s Commissioner”; “Member of staff of the Children’s Commissioner”.
- 13 In the Northern Ireland Assembly Disqualification Act 1975 (c. 25), in Part 3 of Schedule 1 (certain disqualifying offices), at the appropriate places insert the following entries— “Children’s Commissioner”; “Member of staff of the Children’s Commissioner”.

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VALID FROM 01/01/2008

SCHEDULE 2

Section 18

DIRECTOR OF CHILDREN’S SERVICES: CONSEQUENTIAL AMENDMENTS

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SCHEDULE 3

Section 40

ADVISORY AND SUPPORT SERVICES FOR FAMILY PROCEEDINGS

Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22)

- 1 In section 26 of the Domestic Proceedings and Magistrates’ Courts Act 1978 (reconciliation), in subsection (2), after “Criminal Justice and Court Services Act 2000” insert “, a Welsh family proceedings officer (within the meaning given by section 35 of the Children Act 2004)”.

Child Abduction and Custody Act 1985 (c. 60)

- 2 The Child Abduction and Custody Act 1985 is amended as follows.
- 3 In sections 6(a) and 21(a) (reports), after “an officer of the Service” insert “ or a Welsh family proceedings officer ”.
- 4 In section 27 (interpretation), after subsection (5) insert—
- “(5A) In this Act “Welsh family proceedings officer” has the meaning given by section 35 of the Children Act 2004”.

Children Act 1989 (c. 41)

- 5 The Children Act 1989 is amended as follows.
- 6 In section 7 (welfare reports), in subsections (1)(a) and (b) and (5), after “an officer of the Service” insert “ or a Welsh family proceedings officer ”.
- 7 In section 16 (family assistance orders), in subsection (1), after “an officer of the Service” insert “ or a Welsh family proceedings officer ”.
- 8 (1) Section 26 (review of cases etc) is amended as follows.
- (2) In subsection (2A)(c) after “Service” insert “ or a Welsh family proceedings officer ”.
- (3) After subsection (2C) insert—
- “(2D) The power to make regulations in subsection (2C) is exercisable in relation to functions of Welsh family proceedings officers only with the consent of the National Assembly for Wales.”
- 9 (1) Section 41 (representation of child) is amended as follows.

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- (2) In subsection (1), after “an officer of the Service” insert “ or a Welsh family proceedings officer ”.
 - (3) In subsections (2) and (4)(a), after “officer of the Service” insert “ or Welsh family proceedings officer ”.
 - (4) In subsection (10)—
 - (a) in paragraphs (a) and (b), after “officer of the Service” insert “ or Welsh family proceedings officer ”;
 - (b) in paragraph (c), after “officers of the Service” insert “ or Welsh family proceedings officers ”.
 - (5) In subsection (11), after “an officer of the Service” insert “ or a Welsh family proceedings officer ”.
- 10 In section 42 (rights of officers of the Service), in subsections (1) and (2), after “an officer of the Service” insert “ or Welsh family proceedings officer ”.
- 11 In section 105(1) (interpretation), at the end insert—
- ““Welsh family proceedings officer” has the meaning given by section 35 of the Children Act 2004.”

Criminal Justice and Court Services Act 2000 (c. 43)

- 12 The Criminal Justice and Court Services Act 2000 is amended as follows.
- 13 In section 12 (principal functions of CAFCASS), in subsection (1), after “the welfare of children” insert “ other than children ordinarily resident in Wales ”.
- 14 In paragraph 1 of Schedule 2 (members of CAFCASS), for “ten” substitute “ nine ”.

Adoption and Children Act 2002 (c. 38)

- 15 The Adoption and Children Act 2002 is amended as follows.
- 16 (1) Section 102 (officers of the Service) is amended as follows.
- (2) In subsection (1), at the end insert “ or a Welsh family proceedings officer ”.
 - (3) In subsection (7), after “officer of the Service” insert “ or a Welsh family proceedings officer ”.
 - (4) After that subsection insert—
 - “(8) In this section and section 103 “Welsh family proceedings officer” has the meaning given by section 35 of the Children Act 2004.”
- 17 In section 103 (rights of officers of the Service), in subsections (1) and (2), after “officer of the Service” insert “ or a Welsh family proceedings officer ”.

Sexual Offences Act 2003 (c. 42)

- 18 In section 21 of the Sexual Offences Act 2003 (positions of trust), in subsection (12) (a), after “officer of the Service” insert “ or Welsh family proceedings officer (within the meaning given by section 35 of the Children Act 2004) ”.

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SCHEDULE 4

Section 48

CHILD MINDING AND DAY CARE

1 Part 10A of the Children Act 1989 (c. 41) is amended as follows.

Commencement Information

- I1** Sch. 4 para. 1 not in force at Royal Assent see s. 67(7); Sch. 4 para. 1 in force at 1.3.2005 for certain purposes for E. by S.I. 2005/394, art. 2(1); Sch. 4 para. 1 in force for E. in so far as not already in force at 3.10.2005 by S.I. 2005/2298, art. 2(1) (with savings in art. 2(2)); Sch. 4 partly in force at 1.4.2006 by S.I. 2006/885, art. 2(2)

Amendments relating to child minding and day care

Conditions imposed by justice of the peace or tribunal

- 2 (1) In section 79B(3)(d) and (4)(d), for “by the registration authority” substitute “under this Part”.
- (2) In section 79G(2), omit “under section 79F(3)”.

Commencement Information

- I2** Sch. 4 para. 2 wholly in force at 1.4.2006; Sch. 4 para. 2 not in force at Royal Assent see s. 67(7); Sch. 4 para. 2 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 2 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Application fees

- 3 (1) In section 79E(2), at the end insert—
 “(c) be accompanied by the prescribed fee.”
- (2) In section 79F(1) and (2)—
 (a) after “on an application” insert “under section 79E”;
 (b) omit paragraph (b) and the preceding “and”.

Commencement Information

- I3** Sch. 4 para. 3 wholly in force at 1.4.2006; Sch. 4 para. 3 not in force at Royal Assent, see s. 67; Sch. 4 para. 3 in force for E. at 3.10.2005 by S.I. 2005/2298, art. 2(1) (subject to art. 2(2)); Sch. 4 para. 3 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Fees payable by registered persons

- 4 (1) In section 79G(1), for “an annual fee” substitute “a fee”.
- (2) In Schedule 9A—
 (a) in the heading before paragraph 7, omit “Annual”;

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- (b) in paragraph 7, for the words from “at prescribed times” to the end substitute “, at or by the prescribed times, fees of the prescribed amounts in respect of the discharge by the registration authority of its functions under Part XA. ”

Commencement Information

- I4** Sch. 4 para. 4 wholly in force at 1.4.2006; Sch. 4 para. 4 not in force at Royal Assent, see s. 67; Sch. 4 para. 4 in force for E. at 3.10.2005 by S.I. 2005/2298, art. 2(1) (subject to art. 2(2)); Sch. 4 para. 4 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Waiver of disqualification

- 5 In Schedule 9A, in paragraph 4(3A)—
- (a) after “disqualified for registration” insert “ (and may in particular provide for a person not to be disqualified for registration for the purposes of subparagraphs (4) and (5)) ”;
- (b) in paragraph (b), omit “to his registration”.

Commencement Information

- I5** Sch. 4 para. 5 partly in force; Sch. 4 para. 5 not in force at Royal Assent see s. 67(7); Sch. 4 para. 5 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1)

Amendments relating to day care only

Qualification for registration

- 6 In section 79B(4)—
- (a) for paragraphs (a) and (b) substitute—
- “(a) he has made adequate arrangements to ensure that—
- (i) every person (other than himself and the responsible individual) looking after children on the premises is suitable to look after children under the age of eight; and
- (ii) every person (other than himself and the responsible individual) living or working on the premises is suitable to be in regular contact with children under the age of eight;
- (b) the responsible individual—
- (i) is suitable to look after children under the age of eight, or
- (ii) if he is not looking after such children, is suitable to be in regular contact with them;”;
- (b) in subsection (5), for “(4)(b)” substitute “ (4)(a) ”;
- (c) after subsection (5) insert—
- “(5ZA) For the purposes of subsection (4), “the responsible individual” means—

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- (a) in a case of one individual working on the premises in the provision of day care, that person;
- (b) in a case of two or more individuals so working, the individual so working who is in charge.”

Commencement Information

I6 Sch. 4 para. 6 wholly in force at 1.4.2006; Sch. 4 para. 6 not in force at Royal Assent, see s. 67; Sch. 4 para. 6 in force for E. at 3.10.2005 by S.I. 2005/2298, art. 2(1) (with savings in art. 2(2)); Sch. 4 para. 6 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Hotels etc

7 In Schedule 9A, after paragraph 2 insert—

“2A (1) Part XA does not apply to provision of day care in a hotel, guest house or other similar establishment for children staying in that establishment where—

- (a) the provision takes place only between 6 pm and 2 am; and
- (b) the person providing the care is doing so for no more than two different clients at the same time.

(2) For the purposes of sub-paragraph (1)(b), a “client” is a person at whose request (or persons at whose joint request) day care is provided for a child.”

Commencement Information

I7 Sch. 4 para. 7 wholly in force at 1.4.2006; Sch. 4 para. 7 not in force at Royal Assent see s. 67(7); Sch. 4 para. 7 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 7 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Prohibition in respect of disqualified persons

8 In Schedule 9A, in paragraph 4(4)—

- (a) after “or be” insert “ directly ”;
- (b) omit “, or have any financial interest in,”.

Commencement Information

I8 Sch. 4 para. 8 wholly in force at 1.4.2006; Sch. 4 para. 8 not in force at Royal Assent see s. 67(7); Sch. 4 para. 8 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 8 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

Unincorporated associations

9 In Schedule 9A, after paragraph 5 insert—

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“Provision of day care: unincorporated associations

- 5A (1) References in Part XA to a person, so far as relating to the provision of day care, include an unincorporated association.
- (2) Proceedings for an offence under Part XA which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (3) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (4) In proceedings for an offence under Part XA brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure) apply as they do in relation to a body corporate.
- (5) A fine imposed on an unincorporated association on its conviction of an offence under Part XA is to be paid out of the funds of the association.
- (6) If an offence under Part XA committed by an unincorporated association is shown—
- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
 - (b) to be attributable to any neglect on the part of such an officer or member,
- the officer or member as well as the association is guilty of the offence and liable to proceeded against and punished accordingly.”

Commencement Information

I9 Sch. 4 para. 9 wholly in force at 1.4.2006; Sch. 4 para. 9 not in force at Royal Assent see s. 67(7); Sch. 4 para. 9 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 4 para. 9 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

SCHEDULE 5

Section 64

REPEALS

PART 1

PLANS

Commencement Information

I10 Sch. 5 Pt. 1 wholly in force at 31.7.2008; Sch. 5 Pt. 1 not in force at Royal Assent see s. 67(8); Sch. 5 Pt. 1 in force for E. at 1.3.2005 by S.I. 2005/394, art. 2(1); Sch. 5 Pt. 1 in force for W. for certain

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purposes at 1.4.2006 and for certain further purposes at 1.9.2006 by S.I. 2006/885, **art. 2(2)(3)**; Sch. 5 Pt. 1 otherwise in force for W. at 31.7.2008 by S.I. 2008/1904, **art. 2**

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Children Act 1989 (c. 41)	In Schedule 2, paragraph 1A.
Education Act 1996 (c. 56)	Section 527A.
Education Act 1997 (c. 44)	Section 9.
School Standards and Framework Act 1998 (c. 31)	Section 2. Sections 6 and 7. Sections 26 to 26B. In section 27(2), the words “section 26,”. Section 119(5)(b) and the preceding “and”. Sections 120 and 121. In Schedule 6— (a) paragraph 3(4)(b) and the preceding “and”; (b) paragraph 8(4). In Schedule 30, paragraph 144.
Learning and Skills Act 2000 (c. 21)	In Schedule 7— (a) paragraph 35(2)(b); (b) paragraph 42(2)(a). In Schedule 9, paragraphs 80 and 81.
Adoption and Children Act 2002 (c. 38)	Section 5.
Education Act 2002 (c. 32)	In section 150— (a) subsections (2) to (4); (b) in subsection (5), the words from “and early years development plans” to “childcare plans”.

These repeals come into force—

- (a) so far as relating to England, in accordance with provision made by order by the Secretary of State;
- (b) so far as relating to Wales, in accordance with provision so made by the Assembly.

PART 2

CHILD MINDING AND DAY CARE

Commencement Information

- I11** Sch. 5 Pt. 2 wholly in force at 1.4.2006; Sch. 5 Pt. 2 not in force at Royal Assent see s. 67(8); Sch. 5 Pt. 2 in force for E. for certain purposes at 1.3.2005 by S.I. 2005/394, **art. 2(1)**; Sch. 5 Pt. 2 in force for E. otherwise at 3.10.2005 by S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); Sch. 5 Pt. 2 in force for W. at 1.4.2006 by S.I. 2006/885, **art. 2(2)**

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Children Act 1989 (c. 41)	In section 79F(1) and (2), paragraph (b) and the preceding “and”. In section 79G(2), the words “under section 79F(3)”. In Schedule 9A— (a) in paragraph 4(3A)(b), the words “to his registration”; (b) in paragraph 4(4), the words “, or have any financial interest in,”; (c) in the heading before paragraph 7, the word “Annual”.

These repeals come into force—

- (a) so far as relating to England, in accordance with provision made by order by the Secretary of State;
- (b) so far as relating to Wales, in accordance with provision so made by the Assembly.

PART 3

INSPECTION OF LOCAL EDUCATION AUTHORITIES

Commencement Information

I12 Sch. 5 Pt. 3 wholly in force at 31.7.2008; Sch. 5 Pt. 3 not in force at Royal Assent see s. 67(8); Sch. 5 Pt. 3 in force for E. at 1.4.2005 by S.I. 2005/394, art. 2(2); Sch. 5 Pt. 3 in force for W. at 31.7.2008 by S.I. 2008/1904, art. 2

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Disability Discrimination Act 1995 (c. 50)	Section 28D(6).

This repeal comes into force—

- (a) so far as relating to England, in accordance with provision made by order by the Secretary of State;
- (b) so far as relating to Wales, in accordance with provision so made by the Assembly.

PART 4

SOCIAL SERVICES COMMITTEES AND DEPARTMENTS

Commencement Information

I13 Sch. 5 Pt. 4 wholly in force at 1.4.2006; Sch. 5 Pt. 4 not in force at Royal Assent see s. 67(8); Sch. 5 Pt. 4 in force for E. at 1.4.2005 by S.I. 2005/394, art. 2(2); Sch. 5 Pt. 4 in force for W. at 1.4.2006 by S.I. 2006/885, art. 2(2)

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Short title and chapter	Extent of repeal
Children and Young Persons Act 1933 (c. 12)	In section 96(7), the words from “Subject to” to “that committee”.
Children and Young Persons Act 1963 (c. 37)	In section 56(2)— (a) the words “and subsection (1) of section 3 of the Local Authority Social Services Act 1970”; (b) the words “and section 2 of the said Act of 1970 respectively”.
Local Authority Social Services Act 1970 (c. 42)	Sections 2 to 5.
Local Government Act 1972 (c. 70)	Section 101(9)(f).
Mental Health Act 1983 (c. 20)	In section 14, the words “of their social services department”.
Police and Criminal Evidence Act 1984 (c. 60)	In section 63B(10), in the definition of “appropriate adult”, the words “social services department”.
Local Government and Housing Act 1989 (c. 42)	Section 13(2)(c). In Schedule 1, in paragraph 4(2)— (a) in paragraph (a) of the definition of “ordinary sub-committee”, the words from “of the authority's” to “any other sub-committee”; and (b) the definition of “social services committee”.
Criminal Justice Act 1991 (c. 53)	In sections 43(5) and 65(1)(b) and (1B)(a), the words “social services department”.
Crime (Sentences) Act 1997 (c. 43)	In section 31(2A)(b), the words “social services department of the”. In Schedule 1, in the table in paragraph 9(6), the words “social services department”.
Crime and Disorder Act 1998 (c. 37)	The words “social services department” in— (a) section 1AA(9) and (10)(a); (b) section 8(8)(b); (c) section 9(2B)(b); (d) section 11(8)(a); (e) section 18(4)(a); (f) section 39(5)(b); (g) section 65(7)(b); (h) section 98(3) (in the words substituted by that provision).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	The words “social services department” in— (a) section 46(5)(a) and (b); (b) section 69(4)(b), (6)(a) and (10)(a); (c) section 73(5); (d) section 74(5)(b) and (7)(a); (e) section 103(3)(b) and (5)(a);

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	(f) section 162(2)(a) and (b).
Local Government Act 2000 (c. 22)	Section 102(1).
Criminal Justice and Court Services Act 2000 (c. 43)	In section 64(6), in the definition of “appropriate adult”, the words “social services department”.
Criminal Justice Act 2003 (c. 44)	The words “social services department” in— (a) section 158(2)(b); (b) section 161(8)(b); (c) section 199(4)(b); (d) paragraph 5(4) of Schedule 38 (in the words substituted by that provision).

These repeals come into force—

- (a) so far as relating to England, in accordance with provision made by order by the Secretary of State;
- (b) so far as relating to Wales, in accordance with provision so made by the Assembly.

PART 5

REASONABLE PUNISHMENT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Children and Young Persons Act 1933 (c. 12)	Section 1(7).

This repeal comes into force at the same time as section 58.

PART 6

CHILD SAFETY ORDERS

Commencement Information

I14 Sch. 5 Pt. 6 wholly in force at 1.3.2005; Sch. 5 Pt. 6 not in force at Royal Assent see s. 67; Sch. 5 Pt. 6 in force at 1.3.2005 by S.I. 2005/394, art. 2(1)(j)

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Crime and Disorder Act 1998 (c. 37)	Section 12(6)(a) and (7).

These repeals come into force at the same time as section 60.

Status:

Point in time view as at 03/10/2005.

Changes to legislation:

Children Act 2004 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.