

2014 No. 131 (C. 9)

CHILDREN AND YOUNG PERSONS

EDUCATION

**The Children and Young People (Scotland) Act 2014
(Commencement No. 1 and Transitory Provisions) Order 2014**

<i>Made</i> - - - -	<i>15th May 2014</i>
<i>Laid before the Scottish Parliament</i>	<i>19th May 2014</i>
<i>Coming into force</i> - -	<i>28th June 2014</i>

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 102(3) and (4) of the Children and Young People (Scotland) Act 2014(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Children and Young People (Scotland) Act 2014 (Commencement No. 1 and Transitory Provisions) Order 2014 and comes into force on 28th June 2014.

(2) In this Order, “the 2014 Act” means the Children and Young People (Scotland) Act 2014.

Appointed days

2.—(1) 28th June 2014 is the day appointed for the coming into force of section 46 (early learning and childcare), paragraphs 2(1) and (6) and 7 of schedule 5 (consequential amendments) and, only in so far as necessary for the purpose of commencing those paragraphs, section 98 (modification of enactments) of the 2014 Act.

(2) 1st August 2014 is the day appointed for the coming into force of the provisions of the 2014 Act specified in column 1 of the Schedule to this Order (the subject-matter of which is described in column 2 of the Schedule).

(3) Where a purpose is specified in column 3 of the Schedule in relation to any provision specified in column 1 of the Schedule, that provision comes into force on 1st August 2014 for that purpose only.

Transitory: Child’s Plan

3.—(1) This article has effect from 1st August 2014 until a child’s plan is prepared for the first time under Part 5 of the 2014 Act.

(2) For the purpose of section 49 of the 2014 Act (looked after 2 year olds: alternative arrangements to meet wellbeing needs), the reference in subsection (5) of that section to Part 5 is

(a) 2014 asp 8.

to be read as if it were a reference to regulation 5 (child's plan) of the Looked After Children (Scotland) Regulations 2009(a).

Transitory: modification of section 5(1) of the Social Work (Scotland) Act 1968

4.—(1) This article has effect from 1st August 2014 until the day on which Part 12 (services in relation to children at risk of becoming looked after, etc.) and Part 13 (support for kinship care) of the 2014 Act are brought fully into force.

(2) Section 5(1) (local authorities to perform functions under general guidance of the Scottish Ministers) of the Social Work (Scotland) Act 1968(b) is to be read as if the references to Part 12 and Part 13 of the Children and Young People (Scotland) Act 2014 were omitted.

MICHAEL RUSSELL

A member of the Scottish Government

St Andrew's House,
Edinburgh
15th May 2014

(a) S.S.I. 2009/210; regulation 5 was amended by the Children's Hearings (Scotland) Act 2011 (Modification of Subordinate Legislation) Order 2013 (S.S.I. 2013/147), paragraph 11(3) of the Schedule.

(b) 1968 c.49; section 5(1) of the Social Work (Scotland) Act 1968 is amended by the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1), section 21(a) and paragraph 1(a) of schedule 5 to the 2014 Act and S.S.I. 2013/211.

SCHEDULE

Article 2(2) and (3)

<i>Column 1</i> <i>Provisions of the 2014 Act</i>	<i>Column 2</i> <i>Subject-matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 47(1) and (6)	Duty to secure provision of early learning and childcare	
Section 48	Mandatory amount of early learning and childcare	
Section 49	Looked after 2 year olds: alternative arrangements to meet wellbeing needs	
Section 50	Duty to consult and plan on delivery of early learning and childcare	
Section 51	Method of delivery of early learning and childcare	
Section 52	Flexibility in way in which early learning and childcare is made available	
Section 53	Interpretation of Part 6	
Section 54	Duty to consult and plan in relation to power to provide school education for pre-school children	
Section 55	Duty to consult and plan in relation to day care and out of school care	
Section 57	Application of Part: children and young people	So far as is necessary to enable Scottish Ministers to make an order under section 57(2)(b) of the 2014 Act
Section 66	Provision of aftercare to young people	So far as is necessary to enable Scottish Ministers to make orders under section 29(1)(b) and (8) and section 30(2)(b)(ii) of the 1995 Act
Section 67(1)	Continuing care: looked after children	So far as is necessary to enable Scottish Ministers to make orders under section 26A(2)(b), (6), (9) and (11)(a) of the 1995 Act
Section 68	Provision of relevant services to parents and others	So far as is necessary to enable Scottish Ministers to make orders under section 68(1) and (3)(b) of the 2014 Act
Section 69	Relevant services: further provision	
Section 70	Interpretation of Part 12	
Section 71	Assistance in relation to kinship care orders	So far as is necessary to enable Scottish Ministers to make orders under section 71(1) and

<i>Column 1 Provisions of the 2014 Act</i>	<i>Column 2 Subject-matter</i>	<i>Column 3 Purpose</i>
		(2) and (5)(b) of the 2014 Act and for the purposes of section 47(3)(b) of the 2014 Act
Section 72	Orders which are kinship care orders	
Section 73	Kinship care assistance: further provision	So far as is necessary to enable Scottish Ministers to make orders under section 71(1) and (2) and section 73(3) of the 2014 Act
Section 74	Interpretation of Part 13	
Section 91	Appeal against detention of child in secure accommodation	So far as is necessary to enable Scottish Ministers to make regulations under section 44A(5) and (6) of the Criminal Procedure (Scotland) Act 1995
Section 93(6)	Provision of free school lunches	So far as is necessary to enable Scottish Ministers to make regulations under section 53(3)(c) of the 1980 Act
Section 94	Extension of licensing of child performances to children under 14	
Section 96	Assessment of wellbeing	For the purpose of section 49 of the 2014 Act
Section 97	Interpretation	
Section 98	Modification of enactments (consequential amendments)	For the purpose of commencing paragraphs 1, 2(1), (2), (4)(b) and (5)(b), 6 and 10 of schedule 5 to the 2014 Act
Schedule 5, paragraph 1	Consequential amendments	
Schedule 5, paragraph 2(2)	Consequential amendments	
Schedule 5, paragraph 2(4)(b)	Consequential amendments	So far as is necessary to enable Scottish Ministers to make regulations under section 53B(1A) of the 1980 Act
Schedule 5, paragraph 2(5)(b)	Consequential amendments	So far as is necessary to enable Scottish Ministers to make regulations under section 53(3)(c) of the 1980 Act
Schedule 5, paragraph 6	Consequential amendments	
Schedule 5, paragraph 10	Consequential amendments	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the following provisions of the Children and Young People (Scotland) Act 2014 (“the 2014 Act”) on 28th June 2014: section 46, paragraphs 2(1) and (6) and 7 of schedule 5 and section 98 (for the purpose of commencing those paragraphs). This Order also brings into force the following provisions of the 2014 Act on 1st August 2014: sections 47(1) and (6); 48 to 55; 57; 66; 67(1); 68 to 74; 91; 93(6); 94; 96; 97; 98 (for the purpose of commencing the following paragraphs); paragraphs 1, 2(2), (4)(b), (5)(b), 6, and 10 of schedule 5. Of the provisions commenced by this Order, the following are commenced only partially: sections 57; 66; 67(1); 68; 71; 73; 91; 93(6); 96; 98; paragraphs 2(4)(b) and 2(5)(b) of schedule 5.

Article 2(1) appoints 28th June 2014 as the day for the coming into force of section 46 and paragraphs 2(1) and (6) and 7 of schedule 5 to the 2014 Act, and so much of section 98 is as necessary for the purpose of commencing those paragraphs. Article 2(2) appoints 1st August 2014 as the day for the coming into force of the provisions mentioned in the Schedule to this Order. Some are partially commenced for restricted purposes only.

Article 3 makes transitory provision for the period between 1st August 2014 and such time as a child’s plan is prepared under Part 5 of the 2014 Act (which is not yet commenced). It provides that in relation to the obligation on an authority to seek to ensure that a record of certain matters are included in any child’s plan which is prepared for the child under Part 5 (in accordance with section 49(5)) of the 2014 Act then the obligation will be to include that information in any child’s plan prepared under regulation 5 of the Looked After Children (Scotland) Regulations 2009.

Article 4 makes transitory provision for the period between 1st August 2014 and the commencement of the provisions in Parts 12 and 13 of the 2014 Act (in so far as they are not already in force by virtue of this Order). It provides that the modifications made to section 5(1) of the Social Work (Scotland) Act 1968 (which requires local authorities to perform their functions under certain enactments under the general guidance of the Scottish Ministers) by paragraph 1(a)(ii) of schedule 5 to the 2014 Act, which include modifications relating to Parts 12 and 13 also, only have effect in relation to Part 6 (early learning and childcare) of the 2014 Act.

The Bill for the 2014 Act received Royal Assent on 27th March 2014. Section 102(1) of the 2014 Act brought into force sections 99, 100 and 101 of the 2014 Act on the day after Royal Assent. Section 102(2) of the 2014 Act brought into force subsections (2) to (5) of section 47 (duty to secure provision of early learning and childcare) so as to enable an order to be made specifying those children who are eligible for the mandatory amount of early learning and childcare.

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