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SCHEDULES

SCHEDULE 1

Section 7

THE ADOPTION AND CHILDREN ACT REGISTER

1 The Adoption and Children Act 2002 is amended as follows.

Commencement Information

II Sch. 1 para. 1 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 2 (1) Section 125 (Adoption and Children Act Register) is amended as follows.
- (2) In subsection (1) for “Her Majesty may by Order in Council make provision for the Secretary of State to” substitute “The Secretary of State may”.
- (3) After subsection (1) insert—
- “(1A) Regulations may provide that the register may contain—
- (a) prescribed information about children who a Welsh, Scottish or Northern Irish adoption agency is satisfied are suitable for adoption,
 - (b) prescribed information about prospective adopters who a Welsh, Scottish or Northern Irish adoption agency is satisfied are suitable to adopt a child,
 - (c) prescribed information about persons included in the register in pursuance of paragraph (a) or (b) in respect of things occurring after their inclusion.”
- (4) In subsection (2) for “an Order under this section” substitute “regulations”.
- (5) In subsection (4) for “An Order under this section” substitute “Regulations”.

Commencement Information

I2 Sch. 1 para. 2 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 3 (1) Section 126 (use of an organisation to establish the register) is amended as follows.
- (2) In subsection (1) omit “under an Order under section 125”.
- (3) In subsection (3) omit “(or general application in any part of Great Britain)”.
- (4) Omit subsection (4).

Commencement Information

I3 Sch. 1 para. 3 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

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- 4 (1) Section 127 (use of an organisation as agency for payments) is amended as follows.
- (2) In subsection (1) for “An Order under section 125” substitute “ Regulations ”.
- (3) In subsection (2) omit “(or general application in any part of Great Britain)”.
- (4) Omit subsection (3).

Commencement Information

I4 Sch. 1 para. 4 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 5 (1) Section 128 (supply of information for the register) is amended as follows.
- (2) In subsection (1) for “An Order under section 125” substitute “ Regulations ”.
- (3) In subsection (2) for “the Order” substitute “ regulations ”.
- (4) In subsection (3) for “An Order under section 125” substitute “ Regulations ”.

Commencement Information

I5 Sch. 1 para. 5 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 6 (1) Section 129 (disclosure of information) is amended as follows.
- (2) In subsection (1) for “or (3)” substitute “, (2A) or (3) or section 128A ”.
- (3) After subsection (2) insert—
- “(2A) Regulations may make provision permitting the disclosure of prescribed information entered in the register, or compiled from information entered in the register—
- (a) to an adoption agency or to a Welsh, Scottish or Northern Irish adoption agency for any prescribed purpose, or
- (b) for the purpose of enabling the information to be entered in a register which is maintained in respect of Wales, Scotland or Northern Ireland and which contains information about children who are suitable for adoption or prospective adopters who are suitable to adopt a child.”
- (4) In subsection (4)—
- (a) for “An Order under section 125” substitute “ Regulations ”, and
- (b) after “(2)” insert “ or (2A) ”.
- (5) In subsection (5) omit paragraph (b) (and the “or” which precedes it).
- (6) In subsection (6) after “(2)” insert “, (2A) ”.
- (7) In subsection (7)—
- (a) for “An Order under section 125” substitute “ Regulations ”,
- (b) in paragraph (a) after “(2)” insert “ or (2A) ”,
- (c) after paragraph (a) (and before the “or” which follows it) insert—

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- “(aa) by a prescribed Welsh, Scottish or Northern Irish adoption agency in respect of information disclosed under subsection (2A),”, and
- (d) in paragraph (b) for “to whom information is disclosed under subsection (3)” substitute “in respect of information disclosed under subsection (2A) or (3)”.

Commencement Information

I6 Sch. 1 para. 6 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 7 Section 130 (territorial application) is repealed.

Commencement Information

I7 Sch. 1 para. 7 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 8 (1) Section 131 (supplementary) is amended as follows.
- (2) In subsection (1)—
- (a) before paragraph (a) insert—
- “(za) adoption agency” means—
- (i) a local authority in England,
- (ii) a registered adoption society whose principal office is in England,”,
- (b) in paragraph (b) for “an Order under section 125” substitute “regulations”,
- (c) after paragraph (c) insert—
- “(ca) Welsh adoption agency” means—
- (i) a local authority in Wales,
- (ii) a registered adoption society whose principal office is in Wales.”, and
- (d) omit paragraphs (d) and (e).
- (3) In subsection (2) after “sections” insert “(except sections 125(1A) and 129(2A))”.
- (4) After subsection (2) insert—
- “(2A) For the purposes of sections 125(1A) and 129(2A)—
- (a) a child is suitable for adoption if a Welsh, Scottish or Northern Irish adoption agency is satisfied that the child ought to be placed for adoption,
- (b) prospective adopters are suitable to adopt a child if a Welsh, Scottish or Northern Irish adoption agency is satisfied that they are suitable to have a child placed with them for adoption.”
- (5) Omit subsections (4) to (7).

Commencement Information

I8 Sch. 1 para. 8 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

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- 9 In section 142 (supplementary and consequential provision), in subsection (4) omit the words from “or of Her Majesty” to the end.

Commencement Information

I9 Sch. 1 para. 9 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 10 In section 144 (general interpretation etc), in subsection (2)—
- (a) omit “Order in Council or”, and
 - (b) in paragraph (b) omit “Order or, as the case may be,”.

Commencement Information

I10 Sch. 1 para. 10 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

- 11 (1) Sections 125 to 131 cease to have effect in relation to Scotland.
- (2) Accordingly, in section 149 (extent), in subsection (4) omit paragraph (b).

Commencement Information

I11 Sch. 1 para. 11 in force at 13.5.2014 by S.I. 2014/889, art. 5(f)

SCHEDULE 2

Section 12

CHILD ARRANGEMENTS ORDERS: AMENDMENTS

PART 1

AMENDMENTS OF THE CHILDREN ACT 1989

- 1 The Children Act 1989 is amended as follows.

Commencement Information

I12 Sch. 2 para. 1 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 2 (1) Section 5 (appointment of guardians) is amended as follows.
- (2) In subsection (1)(b) (application to court for appointment of guardian may be made following death of person with whom child was to live) for “residence order has been made with respect to the child in favour of a parent, guardian or special guardian of his who” substitute “ parent, guardian or special guardian of the child's was named in a child arrangements order as a person with whom the child was to live and ”.
 - (3) In subsection (7)(b) (when non-court appointment of guardian under subsection (3) or (4) takes effect) for “residence order in his favour was in force with respect to the

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child or he” substitute “ child arrangements order was in force in which the person was named as a person with whom the child was to live or the person ”.

(4) In subsection (9)—

- (a) for “residence” substitute “ child arrangements ”,
- (b) for “was also made in favour of” substitute “ also named ”, and
- (c) after “child” insert “ as a person with whom the child was to live ”.

Commencement Information

I13 Sch. 2 para. 2 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

3 In the title of section 8 for “Residence, contact” substitute “ Child arrangements orders ”.

Commencement Information

I14 Sch. 2 para. 3 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

4 (1) Section 9 (restrictions on making section 8 orders) is amended as follows.

- (2) In subsection (1) (no section 8 order other than a residence order to be made if child is in care) for “residence order” substitute “ child arrangements order to which subsection (6B) applies ”.
- (3) In subsection (2) (local authorities cannot obtain residence or contact orders) for “residence order or contact” substitute “ child arrangements ”.
- (4) In subsection (5)(a) (specific issue order or prohibited steps order not to be made where result could be achieved by a residence or contact order) for “residence or contact” substitute “ child arrangements ”.
- (5) In subsection (6) (section 8 orders other than residence orders are only exceptionally to have effect once child is 16) for “specific issue order, contact order or prohibited steps” substitute “ section 8 ”.

(6) After subsection (6) insert—

“(6A) Subsection (6) does not apply to a child arrangements order to which subsection (6B) applies.

(6B) This subsection applies to a child arrangements order if the arrangements regulated by the order relate only to either or both of the following—

- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I15 Sch. 2 para. 4 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

5 (1) Section 10 (power of court to make section 8 orders) is amended as follows.

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- (2) For subsection (4)(b) (person may apply for section 8 order if residence order is in force in favour of the person) substitute—
- “(b) any person who is named, in a child arrangements order that is in force with respect to the child, as a person with whom the child is to live.”
- (3) In subsection (5) (persons entitled to apply for a residence or contact order)—
- (a) in the words before paragraph (a) for “residence or contact” substitute “ child arrangements ”,
- (b) for paragraph (c)(i) substitute—
- “(i) in any case where a child arrangements order in force with respect to the child regulates arrangements relating to with whom the child is to live or when the child is to live with any person, has the consent of each of the persons named in the order as a person with whom the child is to live;”,
- and
- (c) after paragraph (c) insert—
- “(d) any person who has parental responsibility for the child by virtue of provision made under section 12(2A).”
- (4) In each of subsections (5A) and (5B) (foster parent, or relative, may apply for residence order if child has lived with applicant for at least a year) for “residence order” substitute “ child arrangements order to which subsection (5C) applies ”.
- (5) After subsection (5B) insert—
- “(5C) This subsection applies to a child arrangements order if the arrangements regulated by the order relate only to either or both of the following—
- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.”
- (6) In subsection (6)(b) (person may apply for variation or discharge of a contact order if named in the order)—
- (a) for “contact” substitute “ child arrangements ”, and
- (b) for “the order.” substitute “provisions of the order regulating arrangements relating to—
- (i) with whom the child concerned is to spend time or otherwise have contact, or
- (ii) when the child is to spend time or otherwise have contact with any person.”
- (7) In subsection (7A) (if special guardianship order in force, application for residence order may be made only with leave of the court) for “residence order” substitute “ child arrangements order to which subsection (7B) applies ”.
- (8) After subsection (7A) insert—
- “(7B) This subsection applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child concerned is to live, and

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(b) when the child is to live with any person.”

Commencement Information

I16 Sch. 2 para. 5 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 6
- (1) Section 11 (section 8 orders: general principles and supplementary provisions) is amended as follows.
 - (2) Omit subsection (4) (residence order may make provision about when a child is to live with persons who do not live together).
 - (3) In subsection (5) (residence order ceases to have effect where parents resume cohabitation for at least 6 months)—
 - (a) in paragraph (a) for “residence” substitute “ child arrangements ”,
 - (b) in paragraph (b) for the words before “two” substitute “ the child has ”, and
 - (c) in the words after paragraph (b) for “residence order” substitute “ order, so far as it has the result that there are times when the child lives or is to live with one of the parents, ”.
 - (4) In subsection (6) (contact order ceases to have effect where parents resume cohabitation for at least 6 months) for the words before “shall cease” substitute “ A child arrangements order made with respect to a child, so far as it provides for the child to spend time or otherwise have contact with one of the child's parents at times when the child is living with the child's other parent, ”.
 - (5) In subsection (7)(b) (persons on whom conditions may be imposed by a section 8 order)—
 - (a) for sub-paragraph (i) (person in whose favour the order is made) substitute—

“(i) who is named in the order as a person with whom the child concerned is to live, spend time or otherwise have contact;”, and
 - (b) in sub-paragraph (ii) omit “concerned”.

Commencement Information

I17 Sch. 2 para. 6 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 7
- (1) Section 11A (contact activity directions) is amended as follows.
 - (2) For subsections (1) to (3) (power to make directions) substitute—

“(1) Subsection (2) applies in proceedings in which the court is considering whether to make provision about one or more of the matters mentioned in subsection (1A) by making—

 - (a) a child arrangements order with respect to the child concerned, or
 - (b) an order varying or discharging a child arrangements order with respect to the child concerned.

(1A) The matters mentioned in this subsection are—

 - (a) with whom a child is to live,

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- (b) when a child is to live with any person,
 - (c) with whom a child is to spend time or otherwise have contact, and
 - (d) when a child is to spend time or otherwise have contact with any person.
- (2) The court may make an activity direction in connection with the provision that the court is considering whether to make.
- (2A) Subsection (2B) applies in proceedings in which subsection (2) does not apply and in which the court is considering—
- (a) whether a person has failed to comply with a provision of a child arrangements order, or
 - (b) what steps to take in consequence of a person's failure to comply with a provision of a child arrangements order.
- (2B) The court may make an activity direction in connection with that provision of the child arrangements order.
- (3) An activity direction is a direction requiring an individual who is a party to the proceedings concerned to take part in an activity that would, in the court's opinion, help to establish, maintain or improve the involvement in the life of the child concerned of—
- (a) that individual, or
 - (b) another individual who is a party to the proceedings.”
- (3) In subsection (5) (particular activities that may be required), in paragraph (a)(i) and (ii) and in paragraph (b), for “contact with a child” substitute “ involvement in a child's life ”.
- (4) In subsection (6) (activities which may not be required) for “a contact” substitute “ an ”.
- (5) In subsection (7) (court may not make contact activity direction on same occasion as disposing of proceedings as they relate to contact)—
- (a) in paragraph (a) for “a contact activity direction” substitute “ an activity direction under subsection (2) ”, and
 - (b) in paragraph (b) for “contact with the child concerned” substitute “ the matters mentioned in subsection (1A) in connection with which the activity direction is made ”.
- (6) After subsection (7) insert—
- “(7A) A court may not on the same occasion—
- (a) make an activity direction under subsection (2B), and
 - (b) dispose finally of the proceedings as they relate to failure to comply with the provision in connection with which the activity direction is made.”
- (7) In subsection (8) (limitations on power to make direction under subsection (2)) for “Subsection (2)” substitute “ Each of subsections (2) and (2B) ”.
- (8) In subsection (9) (welfare of child is paramount consideration in considering whether to make contact activity direction) for “a contact” substitute “ an ”.
- (9) In the title omit “Contact”.

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I18 Sch. 2 para. 7 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 8 (1) Section 11B (further provision about contact activity directions) is amended as follows.
- (2) In subsection (1) (court may not make contact activity direction in proceedings unless there is a dispute about contact)—
- (a) for “a contact activity direction in any proceedings” substitute “ an activity direction under section 11A(2) in connection with any matter mentioned in section 11A(1A) ”, and
 - (b) for “about contact” substitute “ about that matter ”.
- (3) In subsection (2) (contact activity direction may not require a child to take part in an activity unless child is a parent of the child in relation to whom court is considering contact)—
- (a) for “a contact” substitute “ an ”, and
 - (b) for “about contact” substitute “ about a matter mentioned in section 11A(1A) ”.
- (4) In subsection (3) (no contact activity direction to be made in connection with contact order which is excepted order)—
- (a) for “a contact activity” substitute “ an activity ”, and
 - (b) for “contact order”, in both places, substitute “ child arrangements order ”.
- (5) In subsection (4) (excepted orders) for “contact order” substitute “ child arrangements order ”.
- (6) In subsection (7) (no contact activity direction to be made unless individual concerned is habitually resident in England and Wales) for “a contact” substitute “ an ”.
- (7) In the title omit “Contact”.

Commencement Information

I19 Sch. 2 para. 8 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 9 (1) Section 11C (contact activity conditions) is amended as follows.
- (2) In subsection (1) (section applies if court makes certain orders) for paragraphs (a) and (b) substitute—
- “(a) a child arrangements order containing—
 - (i) provision for a child to live with different persons at different times,
 - (ii) provision regulating arrangements relating to with whom a child is to spend time or otherwise have contact, or

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- (iii) provision regulating arrangements relating to when a child is to spend time or otherwise have contact with any person;
or
 - (b) an order varying a child arrangements order so as to add, vary or omit provision of a kind mentioned in paragraph (a)(i), (ii) or (iii).”
- (3) In subsection (2) (court may impose contact activity condition)—
- (a) for “contact order”, in both places, substitute “ child arrangements order ”,
 - (b) for “(a “contact activity condition”)” substitute “ (an “activity condition”) ”, and
 - (c) for “promotes contact with the child concerned.” substitute “would, in the court's opinion, help to establish, maintain or improve the involvement in the life of the child concerned of—
 - (a) that individual, or
 - (b) another individual who is a party to the proceedings.”
- (4) In subsection (3) (persons who may be required to take part in activities)—
- (a) in paragraph (a)—
 - (i) for “contact order” substitute “ child arrangements order ”, and
 - (ii) for “the person” substitute “ a person ”, and
 - (b) in paragraph (b) for “the person” substitute “ a person ”.
- (5) In subsection (5) (particular activities that may be required) for “a contact”, in both places, substitute “ an ”.
- (6) In the title omit “Contact”.

Commencement Information

I20 Sch. 2 para. 9 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 10 (1) Section 11D (further provision about contact activity conditions) is amended as follows.
- (2) In subsection (1) (contact activity condition may not be imposed on child unless child is a parent of the child concerned)—
- (a) for “contact order” substitute “ child arrangements order ”, and
 - (b) for “a contact activity” substitute “ an activity ”.
- (3) In subsection (2) (excepted order may not impose contact activity condition)—
- (a) for “contact order” substitute “ child arrangements order ”, and
 - (b) for “a contact activity” substitute “ an activity ”.
- (4) In subsection (3) (no contact activity condition to be imposed unless individual concerned is habitually resident in England and Wales)—
- (a) for “contact order” substitute “ child arrangements order ”, and
 - (b) for “a contact activity” substitute “ an activity ”.
- (5) In the title omit “Contact”.

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I21 Sch. 2 para. 10 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 11 (1) Section 11E (making of contact activity directions and conditions) is amended as follows.
- (2) In subsection (1) (court to satisfy itself of matters within subsections (2) to (4))—
- (a) for “a contact activity”, in both places, substitute “ an activity ”, and
- (b) for “contact order” substitute “ child arrangements order ”.
- (3) In subsection (8) (meaning of “specified”) for “a contact”, in both places, substitute “ an ”.
- (4) In the title omit “Contact”.

Commencement Information

I22 Sch. 2 para. 11 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 12 (1) Section 11F (contact activity: financial assistance) is amended as follows.
- (2) For “a contact activity”, in each place, substitute “ an activity ”.
- (3) In subsections (2) and (4) (fee-assistance may be given in respect of persons required to take part in activity that promotes contact) for “promotes contact with” substitute “ is expected to help to establish, maintain or improve the involvement of that or another individual in the life of ”.
- (4) In the title omit “Contact”.

Commencement Information

I23 Sch. 2 para. 12 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 13 (1) Section 11G (contact activity: monitoring) is amended as follows.
- (2) In subsection (1) for “a contact activity”, in each place, substitute “ an activity ”.
- (3) In subsections (1) and (2) for “contact order”, in each place, substitute “ child arrangements order ”.
- (4) In the title omit “Contact”.

Commencement Information

I24 Sch. 2 para. 13 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 14 (1) Section 11H (monitoring contact) is amended as follows.

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- (2) In subsection (1) (section applies if court makes or varies a contact order) for paragraphs (a) and (b) substitute—
- “(a) a child arrangements order containing provision of a kind mentioned in section 11C(1)(a)(i), (ii) or (iii), or
 - (b) an order varying a child arrangements order so as to add, vary or omit provision of any of those kinds.”
- (3) In subsection (2)(a) (court may ask officer to monitor compliance) for “the contact order (or the contact order as varied);” substitute “ each provision of any of those kinds that is contained in the child arrangements order (or in the child arrangements order as varied); ”.
- (4) In subsection (3) (individuals whose compliance may be monitored)—
- (a) for “contact order”, in both places, substitute “ child arrangements order ”, and
 - (b) for paragraphs (a) and (b) (including the “or” at the end of paragraph (b)) substitute—
 - “(za) provides for the child concerned to live with different persons at different times and names the individual as one of those persons;
 - (a) imposes requirements on the individual with regard to the child concerned spending time or otherwise having contact with some other person;
 - (b) names the individual as a person with whom the child concerned is to spend time or otherwise have contact; or”.
- (5) In subsection (4) (requests under subsection (2) not to relate to contact activity conditions)—
- (a) for “contact order”, in both places, substitute “ child arrangements order ”,
 - (b) for “a contact activity” substitute “ an activity ”, and
 - (c) for “the contact activity” substitute “ the activity ”.
- (6) In subsection (5) (when court may make request under subsection (2))—
- (a) in paragraph (a) for “contact order”, in both places, substitute “ child arrangements order ”, and
 - (b) in paragraph (b) after “the child concerned” insert “ or to the child's living arrangements ”.
- (7) In subsection (10) (request not to be made under subsection (2) if contact order is an excepted order) for “contact” substitute “ child arrangements ”.
- (8) In the title after “contact” insert “ and shared residence ”.

Commencement Information

I25 Sch. 2 para. 14 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 15 In section 11I (warning notices to be attached to contact orders and to orders varying contact orders)—
- (a) for “contact”, in each place, substitute “ child arrangements ”, and

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(b) in the title for “Contact” substitute “ Child arrangements ”.

Commencement Information

I26 Sch. 2 para. 15 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 16 (1) Section 11J (enforcement orders where contact order not complied with) is amended as follows.
- (2) In subsection (1) for “contact” substitute “ child arrangements ”.
- (3) In subsection (2) for “the contact” substitute “ a provision of the child arrangements ”.
- (4) In subsection (3) for “contact order” substitute “ provision ”.
- (5) In subsection (5)—
- (a) for “contact order”, in each place, substitute “ child arrangements order ”,
- (b) in paragraphs (a) and (b) for “the person”, in each place, substitute “ a person ”, and
- (c) in paragraph (c) for “a contact activity” substitute “ an activity ”.
- (6) In subsection (6) for “contact” substitute “ child arrangements ”.

Commencement Information

I27 Sch. 2 para. 16 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 17 (1) Section 11K (enforcement orders: further provisions) is amended as follows.
- (2) In subsection (1) (enforcement order not to be made where notice not given under section 11I)—
- (a) in the words before paragraph (a), for “contact order” substitute “ provision of a child arrangements order ”,
- (b) in paragraph (a)—
- (i) for “a contact order that” substitute “ a provision of a child arrangements order where the order ”, and
- (ii) for “the contact” substitute “ the child arrangements ”, and
- (c) in paragraph (b) for “contact” substitute “ child arrangements ”.
- (3) In subsection (2) (enforcement order not to be made where person failed to comply with contact order when under 18) for “contact” substitute “ provision of a child arrangements ”.
- (4) In subsection (3) (enforcement order not to be made where contact order is an excepted order) for “contact order that” substitute “ provision of a child arrangements order where the child arrangements order ”.

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Commencement Information

I28 Sch. 2 para. 17 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 18 (1) Section 11L (making of enforcement orders) is amended as follows.
- (2) In subsection (1) (order must be necessary and its likely effect proportionate)—
- (a) for “a contact” substitute “ a provision of a child arrangements ”,
 - (b) in paragraph (a) for “contact”, in each place, substitute “ child arrangements ”, and
 - (c) in paragraph (b) omit “of the contact order”.
- (3) In subsection (3) for “contact” substitute “ provision of a child arrangements ”.
- (4) In subsection (7) for “contact”, in both places, substitute “ child arrangements ”.

Commencement Information

I29 Sch. 2 para. 18 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 19 (1) Section 11O (compensation for financial loss arising from breach of contact order) is amended as follows.
- (2) In subsection (1) for “contact” substitute “ child arrangements ”.
- (3) In subsection (2)(a) for “the contact” substitute “ a provision of the child arrangements ”.
- (4) In subsection (3) for “contact” substitute “ particular provision of the child arrangements ”.
- (5) In subsection (6)—
- (a) for “contact order”, in each place, substitute “ child arrangements order ”,
 - (b) in paragraphs (a) and (b) for “the person”, in each place, substitute “ a person ”, and
 - (c) in paragraph (c) for “a contact activity” substitute “ an activity ”.

Commencement Information

I30 Sch. 2 para. 19 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 20 (1) Section 11P (compensation orders under section 11O(2): further provision) is amended as follows.
- (2) In subsection (1) (compensation not to be ordered where notice not given under section 11I)—
- (a) in the words before paragraph (a), for “contact order” substitute “ provision of a child arrangements order ”,
 - (b) in paragraph (a)—

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- (i) for “a contact order that” substitute “ a provision of a child arrangements order where the order ”, and
 - (ii) for “the contact” substitute “ the child arrangements ”, and
 - (c) in paragraph (b) for “contact” substitute “ child arrangements ”.
- (3) In subsection (2) (compensation not to be ordered where person failed to comply with contact order when under 18) for “contact” substitute “ provision of a child arrangements ”.
- (4) In subsection (3) (compensation not to be ordered where contact order is an excepted order) for “contact order that” substitute “ provision of a child arrangements order where the child arrangements order ”.

Commencement Information

I31 Sch. 2 para. 20 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 21 (1) Section 12 (residence orders and parental responsibility) is amended as follows.
- (2) For subsections (1) and (1A) (court making residence order in favour of father without parental responsibility is also to make order giving parental responsibility to the father) substitute—
- “(1) Where—
- (a) the court makes a child arrangements order with respect to a child,
 - (b) the father of the child, or a woman who is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, is named in the order as a person with whom the child is to live, and
 - (c) the father, or the woman, would not otherwise have parental responsibility for the child,
- the court must also make an order under section 4 giving the father, or under section 4ZA giving the woman, that responsibility.
- (1A) Where—
- (a) the court makes a child arrangements order with respect to a child,
 - (b) the father of the child, or a woman who is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, is named in the order as a person with whom the child is to spend time or otherwise have contact but is not named in the order as a person with whom the child is to live, and
 - (c) the father, or the woman, would not otherwise have parental responsibility for the child,
- the court must decide whether it would be appropriate, in view of the provision made in the order with respect to the father or the woman, for him or her to have parental responsibility for the child and, if it decides that it would be appropriate for the father or the woman to have that responsibility, must also make an order under section 4 giving him, or under section 4ZA giving her, that responsibility.”

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- (3) In subsection (2) (residence order in favour of person other than parent or guardian) —
- (a) for “residence order in favour of any person who is not the” substitute “ child arrangements order and a person who is not a ”,
 - (b) after “concerned” insert “ is named in the order as a person with whom the child is to live, ”, and
 - (c) for “residence order remains in force” substitute “ order remains in force so far as providing for the child to live with that person ”.
- (4) After subsection (2) insert—
- “(2A) Where the court makes a child arrangements order and—
- (a) a person who is not the parent or guardian of the child concerned is named in the order as a person with whom the child is to spend time or otherwise have contact, but
 - (b) the person is not named in the order as a person with whom the child is to live,
- the court may provide in the order for the person to have parental responsibility for the child while paragraphs (a) and (b) continue to be met in the person's case.”
- (5) In subsection (3) (limits on parental responsibility given by subsection (2)) after “subsection (2)” insert “ or (2A) ”.
- (6) In subsection (4) (where order giving parental responsibility was made in compliance with subsection (1) or (1A), order not to be revoked while residence order remains in force)—
- (a) omit “or (1A)”,
 - (b) for “in respect of the” substitute “ in respect of a ”, and
 - (c) for “residence order concerned remains in force” substitute “ child arrangements order concerned remains in force so far as providing for the child to live with that parent ”.
- (7) In the title for “Residence” substitute “ Child arrangements ”.

Commencement Information

I32 Sch. 2 para. 21 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 22 (1) Section 13 (effect of residence order on change of child's name or removal from jurisdiction) is amended as follows.
- (2) In subsection (1) (new surname or removal from UK requires consent of all with parental responsibility or leave of court) for “residence order” substitute “ child arrangements order to which subsection (4) applies ”.
- (3) In subsection (2) (child may be removed from UK for up to 1 month by person in whose favour residence order is made) for “the person in whose favour the residence order is made” substitute “ a person named in the child arrangements order as a person with whom the child is to live ”.

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(4) In subsection (3) (court's leave may be given in making a residence order) for “residence order with respect to a child” substitute “ child arrangements order to which subsection (4) applies,”.

(5) After subsection (3) insert—

“(4) This subsection applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I33 Sch. 2 para. 22 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

23 Omit section 14 (enforcement of residence orders in magistrates' courts).

Commencement Information

I34 Sch. 2 para. 23 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

24 In section 14A(5) (persons eligible to apply for special guardianship order), in paragraph (b) for the words after “individual” substitute “ who is named in a child arrangements order as a person with whom the child is to live; ”.

Commencement Information

I35 Sch. 2 para. 24 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

25 (1) Section 14B (making of special guardianship orders) is amended as follows.

(2) In subsection (1) (matters for court to consider before making special guardianship order)—

- (a) in paragraph (a) for “contact order” substitute “ child arrangements order containing contact provision ”,
- (b) in paragraph (c)—
 - (i) for “a contact order” substitute “ provision contained in a child arrangements order ”, and
 - (ii) for “that contact order” substitute “ that provision ”, and
- (c) for paragraph (d) (whether contact activity direction should be discharged) substitute—
 - “(d) where an activity direction has been made—
 - (i) in proceedings for the making, variation or discharge of a child arrangements order with respect to the child, or
 - (ii) in other proceedings that relate to such an order,

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that direction should be discharged.”

(3) After subsection (1) insert—

“(1A) In subsection (1) “contact provision” means provision which regulates arrangements relating to—

- (a) with whom a child is to spend time or otherwise have contact, or
- (b) when a child is to spend time or otherwise have contact with any person;

but in paragraphs (a) and (b) a reference to spending time or otherwise having contact with a person is to doing that otherwise than as a result of living with the person.”

Commencement Information

I36 Sch. 2 para. 25 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

26 In section 14D(1) (persons eligible to apply for variation or discharge of special guardianship order), in paragraph (c) for the words after “individual” substitute “who is named in a child arrangements order as a person with whom the child is to live;”.

Commencement Information

I37 Sch. 2 para. 26 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

27 (1) Section 16 (family assistance orders) is amended as follows.

(2) In subsection (2)(b) (persons may be named in order if child lives with them or if contact order in their favour is in force) for the words after “living or” substitute “who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact”.

(3) In subsection (4A) (family assistance order may direct officer to give advice and assistance as to contact where contact order in force) for “a contact order” substitute “contact provision contained in a child arrangements order”.

(4) After subsection (4A) insert—

“(4B) In subsection (4A) “contact provision” means provision which regulates arrangements relating to—

- (a) with whom a child is to spend time or otherwise have contact, or
- (b) when a child is to spend time or otherwise have contact with any person.”

Commencement Information

I38 Sch. 2 para. 27 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

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- 28 For section 20(9)(a) (if accommodation under section 20 provided for child with agreement of person in whose favour a residence order has been made, that agreement overrides objections of a person with parental responsibility) substitute—

“(a) who is named in a child arrangements order as a person with whom the child is to live;”.

Commencement Information

I39 Sch. 2 para. 28 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 29 In section 22C(3)(c) (where residence order in favour of a person was in force before care order was made, local authority may arrange for the child to live with that person)—

- (a) for “a residence order” substitute “ a child arrangements order ”, and
(b) for “in whose favour the residence order was made” substitute “ named in the child arrangements order as a person with whom C was to live ”.

Commencement Information

I40 Sch. 2 para. 29 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 30 In section 23(4) (persons not referred to as local authority foster parents), in paragraph (c) for the words from “a residence order” to the end substitute “ a child arrangements order in force with respect to the child immediately before the care order was made, a person named in the child arrangements order as a person with whom the child was to live. ”

Commencement Information

I41 Sch. 2 para. 30 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 31 In section 34(1)(c) (child in care to be allowed reasonable contact with person in whose favour residence order was in force before care order was made)—

- (a) for “residence” substitute “ child arrangements ”, and
(b) for “the person in whose favour the order was made” substitute “ any person named in the child arrangements order as a person with whom the child was to live ”.

Commencement Information

I42 Sch. 2 para. 31 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 32 (1) Section 38 (interim care or supervision orders) is amended as follows.
(2) In subsection (3) (interim supervision order to be made in certain cases where residence order made in proceedings for a care or supervision order) for “residence

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order with respect to” substitute “ child arrangements order with respect to the living arrangements of”.

(3) After subsection (3) insert—

“(3A) For the purposes of subsection (3), a child arrangements order is one made with respect to the living arrangements of the child concerned if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I43 Sch. 2 para. 32 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

33 (1) Section 41 (representation of child: meaning of “specified proceedings”) is amended as follows.

(2) In subsection (6)(e) and (h)(ii) (which refer to the making of a residence order) for “residence order with respect to” substitute “ child arrangements order with respect to the living arrangements of”.

(3) After subsection (6A) insert—

“(6B) For the purposes of subsection (6), a child arrangements order is one made with respect to the living arrangements of a child if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I44 Sch. 2 para. 33 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

34 In section 43(11) (persons to be given notice of application for child assessment order) for paragraph (d) substitute—

“(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;”.

Commencement Information

I45 Sch. 2 para. 34 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

35 In section 44(13) (persons to be allowed reasonable contact with child where emergency protection order made) for paragraph (d) substitute—

“(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;”.

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Commencement Information

I46 Sch. 2 para. 35 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 36 In section 46(10) (persons to be allowed reasonable contact with child in police protection where that is in child's best interests) for paragraph (d) substitute—
- “(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;”.

Commencement Information

I47 Sch. 2 para. 36 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 37 (1) Section 91 (effect and duration of orders etc.) is amended as follows.
- (2) In subsection (1) (making of residence order discharges care order) for “residence order with respect to” substitute “ child arrangements order with respect to the living arrangements of ”.
- (3) After subsection (1) insert—
- “(1A) For the purposes of subsection (1), a child arrangements order is one made with respect to the living arrangements of a child if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”
- (4) In subsection (2A) (making of care order discharges contact activity direction)—
- (a) for “a contact” substitute “ an ”, and
- (b) for “as regards contact with” substitute “ with respect to ”.
- (5) In subsection (10) (section 8 order other than residence order ceases to have effect when child turns 16 unless it is to have effect beyond that age by virtue of section 9(6)) omit “other than a residence order”.
- (6) After subsection (10) insert—
- “(10A) Subsection (10) does not apply to provision in a child arrangements order which regulates arrangements relating to—
- (a) with whom a child is to live, or
- (b) when a child is to live with any person.”

Commencement Information

I48 Sch. 2 para. 37 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 38 (1) Section 105 (interpretation) is amended as follows.
- (2) In subsection (1) (definitions)—

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- (a) before the definition of “adoption agency” insert—
 - ““activity condition” has the meaning given by section 11C;
 - “activity direction” has the meaning given by section 11A;”,
 - (b) at the appropriate place insert—
 - “child arrangements order” has the meaning given by section 8(1);”,
 - and
 - (c) omit the definition of “contact activity condition”, the definition of “contact activity direction”, the definition of “contact order” and the definition of “residence order”.
- (3) Omit subsection (3) (interpretation of certain references relating to residence orders).

Commencement Information

I49 Sch. 2 para. 38 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 39 (1) Schedule A1 (enforcement orders) is amended as follows.
- (2) In paragraphs 4(1), 5(1), 6(1), 7(1), 8(1) and 9(1) and (11)(a) for “contact” substitute “provision of a child arrangements”.
 - (3) In paragraphs 4(2)(c), (4)(b) and (5), 6(3) and 9(6) and (10)(a) for “contact”, in each place, substitute “child arrangements”.
 - (4) In paragraph 9(5) for “the contact” substitute “a provision of the child arrangements”.
 - (5) In paragraph 9(10)(b) for “contact order and” substitute “provisions of the child arrangements order and with”.

Commencement Information

I50 Sch. 2 para. 39 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 40 (1) Schedule 1 (financial provision for children) is amended as follows.
- (2) In paragraph 1 (power of court to make orders on application of parent, guardian, special guardian or person in whose favour residence order in force)—
 - (a) in sub-paragraph (1) for the words from “in whose favour” to “to a child” substitute “who is named in a child arrangements order as a person with whom a child is to live”;
 - (b) in sub-paragraph (6)—
 - (i) omit “a residence order or”, and
 - (ii) after “special guardianship order” insert “, or on making, varying or discharging provision in a child arrangements order with respect to the living arrangements of a child,” and
 - (c) after sub-paragraph (6) insert—

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- “(6A) For the purposes of sub-paragraph (6) provision in a child arrangements order is with respect to the living arrangements of a child if it regulates arrangements relating to—
- (a) with whom the child is to live, or
 - (b) when the child is to live with any person.”
- (3) In paragraph 8 (circumstances in which court may revoke financial relief order under other enactment)—
- (a) in sub-paragraph (1) for “residence order” substitute “ child arrangements order to which sub-paragraph (1A) applies ”, and
 - (b) after sub-paragraph (1) insert—
- “(1A) This sub-paragraph applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child concerned is to live, and
 - (b) when the child is to live with any person.”, and
- (c) in sub-paragraph (2)(b)—
 - (i) after “any person” insert “ who is named in a child arrangements order as a person with whom the child is to live or ”, and
 - (ii) omit “a residence order or”.
- (4) In paragraph 15 (local authority may contribute to maintenance of child living with person as a result of residence order) for “residence order” substitute “ child arrangements order ”.

Commencement Information

I51 Sch. 2 para. 40 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 41 In Schedule 14, omit paragraph 10 (certain orders made under legislation repealed by the Children Act 1989 to be enforceable under section 14 of that Act).

Commencement Information

I52 Sch. 2 para. 41 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

PART 2

AMENDMENTS IN OTHER LEGISLATION

Marriage Act 1949 (c. 76)

- 42 (1) Section 3 of the Marriage Act 1949 (marriage of persons under 18) is amended as follows.

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- (2) In subsection (1A) (persons whose consent is required), in each of paragraphs (d) and (h), for “residence order” substitute “ child arrangements order to which subsection (1C) applies ”.
- (3) In subsection (1B) (interpretation) for “ “residence order”,” substitute “ “child arrangements order”, ”.
- (4) After that subsection insert—
 - “(1C) A child arrangements order is one to which this subsection applies if the order regulates arrangements that consist of, or include, arrangements which relate to either or both of the following—
 - (a) with whom the child is to live, and
 - (b) when the child is to live with any person.”

Commencement Information

I53 Sch. 2 para. 42 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Children and Young Persons Act 1969 (c. 54)

- 43 (1) Section 70 of the Children and Young Persons Act 1969 (interpretation) is amended as follows.
 - (2) In subsection (1A) (“father” includes father not married at child's birth to child's mother if there is residence order in father's favour) for paragraph (b) substitute—
 - “(b) whose father is named in a child arrangements order as a person with whom the child or young person is to live,”.
 - (3) In subsection (1B) for “ “residence” substitute “ “child arrangements”.

Commencement Information

I54 Sch. 2 para. 43 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Local Authority Social Services Act 1970 (c. 42)

- 44 In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions), in the second column of the entry for the Children Act 1989, for “residence” substitute “ child arrangements ”.

Commencement Information

I55 Sch. 2 para. 44 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Status: Point in time view as at 09/12/2021.

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Domicile and Matrimonial Proceedings Act 1973 (c. 45)

- 45 (1) Paragraph 11 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (restrictions on court's powers while matrimonial proceedings are stayed) is amended as follows.
- (2) In sub-paragraph (4A)(b) (contact order in force when proceedings stayed) for “contact” substitute “ child arrangements ”.
- (3) In sub-paragraph (4B) (enforcement of the contact order while the proceedings are stayed) for “contact”, in both places, substitute “ child arrangements ”.

Commencement Information

I56 Sch. 2 para. 45 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Mental Health Act 1983 (c. 20)

- 46 In section 28(1) of the Mental Health Act 1983 (“nearest relative” of child in respect of whom residence order is in force etc)—
- (a) in paragraph (b)—
- (i) for “residence” substitute “ person is named in a child arrangements ”, and
- (ii) for “is in force with respect to such a person” substitute “ as a person with whom a person who has not attained the age of eighteen years is to live ”, and
- (b) in the words after paragraph (b), for “named in the residence order” substitute “ so named (or the persons so named, where there is more than one) ”.

Commencement Information

I57 Sch. 2 para. 46 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Child Abduction Act 1984 (c. 37)

- 47 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction of child by connected person without appropriate consent) is amended as follows.
- (2) In subsection (2)(d) (person in whose favour residence order is in force is connected person) for the words after “person” substitute “ named in a child arrangements order as a person with whom the child is to live; or ”.
- (3) In subsection (3)(a) (“appropriate consent” includes consent of every person listed) for sub-paragraph (iv) (person in whose favour residence order is in force) substitute—
- “(iv) any person named in a child arrangements order as a person with whom the child is to live;”.

Status: Point in time view as at 09/12/2021.

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- (4) In subsection (4)(a) (exception for short foreign trip organised by person in whose favour residence order made) for “in whose favour there is a residence order in force with respect to the child,” substitute “ named in a child arrangements order as a person with whom the child is to live ”.
- (5) For subsection (5A)(a)(i) (exception where consent unreasonably refused does not apply where there is residence order in favour of person refusing consent) substitute—
- “(i) named in a child arrangements order as a person with whom the child is to live;”.
- (6) In subsection (7)(a) (interpretation) for “ “residence” substitute “ “child arrangements””.

Commencement Information

I58 Sch. 2 para. 47 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Child Abduction and Custody Act 1985 (c. 60)

- 48 For paragraph 1(b) of Schedule 3 to the Child Abduction and Custody Act 1985 (orders mentioned in section 27(1) include a residence order) substitute—
- “(b) a child arrangements order (as defined by section 8 of the Act of 1989) if the arrangements regulated by the order consist of, or include, arrangements relating to either or both of the following—
- (i) with whom a child is to live, or
- (ii) when a child is to live with any person;”.

Commencement Information

I59 Sch. 2 para. 48 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Family Law Act 1986 (c. 55)

- 49 The Family Law Act 1986 is amended as follows.

Commencement Information

I60 Sch. 2 para. 49 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 50 (1) Section 5 (which contains references to contact activity directions) is amended as follows.
- (2) In subsection (2A)—
- (a) for “a contact” substitute “ an ”, and
- (b) for “the contact” substitute “ the ”.

Status: Point in time view as at 09/12/2021.

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(3) In subsection (3B) for “a contact” substitute “ an ”.

Commencement Information

I61 Sch. 2 para. 50 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

51 (1) Section 6 (which includes provision for a family assistance order to cease to have effect where a related residence order is superseded by an order made in Scotland or Northern Ireland) is amended as follows.

(2) After subsection (5) insert—

“(5A) Subsection (7) below applies where a Part I order which is a child arrangements order (within the meaning of section 8(1) of the Children Act 1989) ceases by virtue of subsection (1) above to name a person as someone with whom a child is to live.”

(3) In subsection (6) (circumstances in which subsection (7) applies)—

- (a) after “Subsection (7) below” insert “ also ”, and
- (b) omit paragraph (a) (residence order ceasing to have effect by virtue of subsection (1)).

Commencement Information

I62 Sch. 2 para. 51 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Child Support Act 1991 (c. 48)

52 For section 3(4)(c) of the Child Support Act 1991 (persons with residence orders in their favour may not be prescribed as persons who are not “persons with care”) substitute—

“(c) persons named, in a child arrangements order under section 8 of the Children Act 1989, as persons with whom a child is to live;”.

Commencement Information

I63 Sch. 2 para. 52 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Armed Forces Act 1991 (c. 62)

53 The Armed Forces Act 1991 is amended as follows.

Commencement Information

I64 Sch. 2 para. 53 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Status: Point in time view as at 09/12/2021.

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54 In section 17(4) (persons who may apply for assessment order) after paragraph (d) insert—

“(da) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

Commencement Information

I65 Sch. 2 para. 54 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

55 In section 18(7) (persons who may apply to vary or discharge an assessment order) after paragraph (d) insert—

“(da) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

Commencement Information

I66 Sch. 2 para. 55 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

56 In section 20(8) (persons who are to be allowed reasonable contact with a child subject to a protection order) after paragraph (c) insert—

“(ca) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

Commencement Information

I67 Sch. 2 para. 56 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

57 In section 22A(7) (persons who are to be allowed reasonable contact with a child in service police protection) after paragraph (c) insert—

“(ca) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

Commencement Information

I68 Sch. 2 para. 57 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

58 (1) Section 23(1) (interpretation of Part 3) is amended as follows.

(2) After the definition of “child” insert—

““child arrangements order” has the meaning given by section 8(1) of the Children Act 1989;”.

(3) In the definition of “contact order”—

Status: Point in time view as at 09/12/2021.

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- (a) omit “section 8(1) of the Children Act 1989 or”, and
- (b) omit “as the case may be”.

Commencement Information

I69 Sch. 2 para. 58 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Adoption and Children Act 2002 (c. 38)

59 The Adoption and Children Act 2002 is amended as follows.

Commencement Information

I70 Sch. 2 para. 59 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 60 (1) Section 26 (placement of children by adoption agency for adoption: contact) is amended as follows.
- (2) In subsection (1) (provision for contact under the 1989 Act ceases to have effect and any contact activity direction is discharged) for the words from “any provision for contact” to the end substitute “—
- (a) any contact provision in a child arrangements order under section 8 of the 1989 Act ceases to have effect,
 - (b) any order under section 34 of that Act (parental etc contact with children in care) ceases to have effect, and
 - (c) any activity direction made in proceedings for the making, variation or discharge of a child arrangements order with respect to the child, or made in other proceedings that relate to such an order, is discharged.”
- (3) In subsection (2)(a) (no application may be made for provision for contact under the 1989 Act) for “any provision for contact under that Act, but” substitute “—
- (i) a child arrangements order under section 8 of the 1989 Act containing contact provision, or
 - (ii) an order under section 34 of that Act, but”.
- (4) In subsection (3)(c) (application for contact may be made by person in whose favour provision for contact was made)—
- (a) omit “for contact under the 1989 Act”, and
 - (b) for “(1)” substitute “ (1)(a) or an order which ceased to have effect by virtue of subsection (1)(b) ”.
- (5) In subsection (3)(d) (application for contact may be made by person in whose favour residence order was made)—
- (a) for “residence” substitute “ child arrangements ”, and
 - (b) for “the person in whose favour the order was made” substitute “ any person named in the order as a person with whom the child was to live ”.

Status: Point in time view as at 09/12/2021.

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(6) In subsection (5) (application for contact order that is to be heard together with application for adoption order) for “contact order under section 8 of the 1989 Act” substitute “ child arrangements order under section 8 of the 1989 Act containing only contact provision ”.

(7) For subsection (6) (interpretation) substitute—

“(5A) In this section “contact provision” means provision which regulates arrangements relating to—

- (a) with whom a child is to spend time or otherwise have contact, or
- (b) when a child is to spend time or otherwise have contact with any person;

but in paragraphs (a) and (b) a reference to spending time or otherwise having contact with a person is to doing that otherwise than as a result of living with the person.

(6) In this section “activity direction” has the meaning given by section 11A of the 1989 Act.”

Commencement Information

I71 Sch. 2 para. 60 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

61 (1) Section 28 (further consequences of placement) is amended as follows.

(2) In subsection (1)(a) (restrictions on applying for residence order) for “residence order” substitute “ child arrangements order regulating the child's living arrangements ”.

(3) After subsection (4) insert—

“(5) For the purposes of subsection (1)(a), a child arrangements order regulates a child's living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I72 Sch. 2 para. 61 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

62 (1) Section 29 (further consequences of placement orders) is amended as follows.

(2) In subsection (3)(a) (residence order etc may not be made if placement order is in force) omit “, residence order”.

(3) In subsection (4) (residence orders to which subsection (3) does not apply)—

- (a) for “Subsection (3)(a) does not apply in respect of a residence order if—” substitute “ Where a placement order is in force, a child arrangements order may be made with respect to the child's living arrangements only if— ”, and
- (b) in paragraph (b), for “residence” substitute “ child arrangements ”.

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(4) After subsection (4) insert—

“(4A) For the purposes of subsection (4), a child arrangements order is one made with respect to a child's living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I73 Sch. 2 para. 62 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

63 (1) Section 32 (recovery of child from placement) is amended as follows.

(2) In subsection (5) (effect of undecided application for residence order etc on duty to return child) for paragraphs (a) and (b) substitute—

- “(a) before the notice was given, an application—
- (i) for an adoption order (including a Scottish or Northern Irish adoption order),
 - (ii) for a special guardianship order,
 - (iii) for a child arrangements order to which subsection (6) applies, or
 - (iv) for permission to apply for an order within subparagraph (ii) or (iii),
- was made in respect of the child, and
- (b) the application (and, in a case where permission is given on an application to apply for an order within paragraph (a)(ii) or (iii), the application for the order) has not been disposed of.”

(3) After that subsection insert—

“(6) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom a child is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I74 Sch. 2 para. 63 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

64 (1) Section 35 (return of placed child in certain cases) is amended as follows.

(2) In subsection (5) (effect of undecided application for residence order etc on duty to return child) for paragraphs (b) and (c) substitute—

- “(b) before the notice was given, an application—
- (i) for an adoption order (including a Scottish or Northern Irish adoption order),

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- (ii) for a special guardianship order,
 - (iii) for a child arrangements order to which subsection (5A) applies, or
 - (iv) for permission to apply for an order within subparagraph (ii) or (iii),
- was made in respect of the child, and
- (c) the application (and, in a case where permission is given on an application to apply for an order within paragraph (b)(ii) or (iii), the application for the order) has not been disposed of.”

(3) After that subsection insert—

- “(5A) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom a child is to live, and
 - (b) when a child is to live with any person.”

Commencement Information

I75 Sch. 2 para. 64 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

65 (1) Schedule 6 (glossary) is amended as follows.

(2) At the appropriate place insert—

“child arrangements order	section 8(1) of the 1989 Act”
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(3) Omit the entry for “residence order”.

Commencement Information

I76 Sch. 2 para. 65 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Civil Partnership Act 2004 (c. 33)

66 (1) Schedule 2 to the Civil Partnership Act 2004 (civil partnerships of persons under 18) is amended as follows.

(2) In paragraph 1 (persons whose consent is required), in each of items 4 and 8 in the first column of the table, for “residence order” substitute “ child arrangements order to which paragraph 2A applies ”.

(3) In paragraph 2 (interpretation of paragraph 1) for “ “residence order”, ” substitute “ “child arrangements order”, ”.

(4) In Part 1 (appropriate persons) after paragraph 2 insert—

“2A A child arrangements order (as defined by section 8 of the Children Act 1989) is one to which this paragraph applies if the order regulates

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arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

Commencement Information

I77 Sch. 2 para. 66 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Income Tax (Trading and Other Income) Act 2005 (c. 5)

67 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.

Commencement Information

I78 Sch. 2 para. 67 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

- 68 (1) Section 744 (payments to adopters, etc: England and Wales) is amended as follows.
- (2) In subsection (1)(g) (no income tax on payments under section 17 of the Children Act 1989 made to a person as a result of a residence order being in force in the person's favour) for “in whose favour a residence order with respect to a child is in force” substitute “ named in a child arrangements order as a person with whom a child is to live ”.
 - (3) In subsection (1)(h) (no income tax on payments under paragraph 15 of Schedule 1 to the 1989 Act made to person with whom child is living, or is to live, as a result of a residence order) for “in whose favour residence order is in force” substitute “ with whom child is living, or is to live, as a result of a child arrangements order ”.
 - (4) In subsection (1)(i) (no income tax on other payments under maintenance agreements or under orders under Schedule 1 to the 1989 Act) for “in whose favour a residence order with respect to the child is in force” substitute “ named in a child arrangements order as a person with whom the child is to live ”.
 - (5) For subsection (2)(c) (payment not exempt from tax if made to a person in whose favour a residence order is in force where that order is also in favour of an excluded relative) substitute—
 - “(c) it is made to a person (“P”) named in a child arrangements order as a person with whom the child is to live and an excluded relative who lives in the same household as P is also named in that order as a person with whom the child is to live.”
 - (6) In subsection (3) (interpretation) for “ “residence” substitute “ “child arrangements”.

Commencement Information

I79 Sch. 2 para. 68 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

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- 69 In section 806(5) (persons who are not foster carers for purposes of Chapter 2 of Part 7) after paragraph (b) insert—
- “(ba) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the care order was made, a person named in the child arrangements order as a person with whom the child was to live,
- (bb) (in Scotland) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the child was placed in care, a person named in the child arrangements order as a person with whom the child was to live, spend time or otherwise have contact,”.

Commencement Information

I80 Sch. 2 para. 69 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

- 70 In paragraph 13(1)(c) of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services: orders mentioned in section 8(1) of the Children Act 1989) for “residence, contact” substitute “ child arrangements orders ”.

Commencement Information

I81 Sch. 2 para. 70 in force at 22.4.2014 by S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

SCHEDULE 3

Section 82

SPECIAL EDUCATIONAL NEEDS: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO THE EDUCATION ACT 1996

- 1 The Education Act 1996 is amended as follows.

Commencement Information

I82 Sch. 3 para. 1 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 2 (1) Section 6 (nursery schools and special schools) is amended as follows.
- (2) Omit subsection (2).
- (3) In the title, omit “and special schools”.

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Commencement Information

I83 Sch. 3 para. 2 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 3 (1) Section 13 (general responsibility for education) is amended as follows.
- (2) In subsection (3)(b) for “but under 25 and are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.
- (3) Omit subsections (4) and (5).

Commencement Information

I84 Sch. 3 para. 3 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 4 In section 13A (duty to promote high standards and fulfilment of potential), in subsection (2)(b) for “but under 25 who are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.

Commencement Information

I85 Sch. 3 para. 4 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 5 (1) Section 15ZA (duty in respect of education and training for persons over compulsory school age: England) is amended as follows.
- (2) In subsection (1) for “but under 25 and are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.
- (3) In subsection (3)(b) after “learning difficulties” insert “ or disabilities ”.
- (4) In subsections (6) and (7) after “learning difficulty” insert “ or disability ”.
- (5) For subsection (9) substitute—
- “(9) The duty in subsection (1) does not apply in relation to persons in a local authority's area who are subject to a detention order.”

Commencement Information

I86 Sch. 3 para. 5 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 6 In section 15A (powers in respect of education and training for 16 to 18 year olds), in subsection (3) for the words from “a local authority” to the end substitute “—
- (a) a local authority in England must in particular have regard to the needs of persons with learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7));

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- (b) a local authority in Wales must in particular have regard to the needs of persons with learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000).”

Commencement Information

I87 Sch. 3 para. 6 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 7 In section 15B (functions in respect of education for persons aged over 19), in subsection (3) for the words from “a local authority” to the end substitute “—
- (a) a local authority in England must in particular have regard to the needs of persons with learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7));
- (b) a local authority in Wales must in particular have regard to the needs of persons with learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000).”

Commencement Information

I88 Sch. 3 para. 7 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 8 In section 18A (provision of education for persons subject to youth detention), in subsection (2)—
- (a) in paragraph (b) omit “or learning difficulties (within the meaning of section 15ZA(6) and (7))”, and
- (b) after that paragraph insert—
- “(ba) in the case of a local authority in England, any learning difficulties or disabilities (within the meaning of section 15ZA(6) and (7)) the persons may have;
- (bb) in the case of a local authority in Wales, any learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000) the persons may have;”.

Commencement Information

I89 Sch. 3 para. 8 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 9 In the title of Chapter 1 of Part 4 (children with special educational needs) after “children” insert “ in Wales ”.

Commencement Information

I90 Sch. 3 para. 9 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 10 Before section 312 (meaning of special educational needs etc) insert—

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Application of this Chapter: children in Wales

“311A This Chapter applies only in relation to children in the area of a local authority in Wales.”

Commencement Information

I91 Sch. 3 para. 10 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 11 (1) Section 312 (meaning of “special educational needs” and “special educational provision” etc) is amended as follows.
- (2) In subsections (1) and (2), after “child” insert “ in the area of a local authority in Wales ”.
- (3) In subsection (3A)—
- (a) in paragraph (a)—
- (i) omit “15ZA”, and
- (ii) for “, 15B and 507B” substitute “ and 15B ”, and
- (b) in paragraph (b), before “determining” substitute “a local authority in Wales”.
- (4) In subsection (4), after “ “special educational provision”” insert “ , in relation to a child in the area of a local authority in Wales, ”.

Commencement Information

I92 Sch. 3 para. 11 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 12 (1) Section 313 (code of practice) is amended as follows.
- (2) In subsections (1) and (4) for “Secretary of State” substitute “ Welsh Ministers ”.
- (3) In subsection (5)—
- (a) after “means” insert “ the Special Educational Needs Tribunal for Wales. ”, and
- (b) omit paragraphs (a) and (b).

Commencement Information

I93 Sch. 3 para. 12 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 13 (1) Section 314 (making and approval of code) is amended as follows.
- (2) In subsection (1)—
- (a) for “Secretary of State proposes” substitute “ Welsh Ministers propose ”, and
- (b) for “he” substitute “ they ”.
- (3) In subsection (2)—

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- (a) for “Secretary of State” substitute “ Welsh Ministers ”,
- (b) for “he thinks” substitute “ they think ”, and
- (c) for “them” substitute “ those persons ”.

(4) For subsection (3) substitute—

“(3) If the Welsh Ministers determine to proceed with the draft (either in its original form or with such modifications as they think fit) they shall lay it before the National Assembly for Wales.”

(5) In subsection (4)—

- (a) for “each house, the Secretary of State” substitute “ the National Assembly for Wales, the Welsh Ministers ”, and
- (b) for “the Secretary of State may” substitute “ the Welsh Ministers may ”.

Commencement Information

I94 Sch. 3 para. 13 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

14 (1) Section 316A (education otherwise than in mainstream schools) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a), for sub-paragraph (ii) substitute—
 - “(ii) the governing body of the school or, if the school is in England, its head teacher,”, and
- (b) in paragraph (c), for sub-paragraph (ii) substitute—
 - “(ii) the governing body of the school or, if the school is in England, its head teacher,”.

(3) In subsection (8)—

- (a) after “issued” insert “ by the Welsh Ministers ”, and
- (b) omit paragraphs (a) and (b).

(4) In subsection (10)—

- (a) omit “, in relation to Wales,”, and
- (b) for “National Assembly for Wales” substitute “ Welsh Ministers ”.

Commencement Information

I95 Sch. 3 para. 14 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

15 In section 317 (duties of governing body or local authority in relation to pupils with special educational needs), in subsection (5)—

- (a) after “foundation special school shall” insert “include special needs information in the report prepared under section 30(1) of the Education Act 2002 (governors' report).”, and
- (b) omit paragraphs (a) and (b).

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I96 Sch. 3 para. 15 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 16 (1) Section 318 (provision of goods and services in connection with special educational needs) is amended as follows.
- (2) Omit subsections (3) and (3A).
- (3) In subsection (3B) omit “in Wales” (in the first place it occurs).
- (4) In consequence of the repeal made by sub-paragraph (2)—
- (a) in Schedule 30 to the School Standards and Framework Act 1998 omit paragraph 75(4),
- (b) in the Education Act 2002, in section 194 omit subsection (2)(a), and
- (c) in Schedule 2 to the Childcare Act 2006, omit paragraph 21.

Commencement Information

I97 Sch. 3 para. 16 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 17 In section 326 (appeal against contents of statement), in subsection (4)(c) for the words from “in the case” to “in the proceedings” substitute “in the proceedings the child has proposed the school”.

Commencement Information

I98 Sch. 3 para. 17 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 18 (1) Section 326A (unopposed appeals) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) the parent of a child, or a child, has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a local authority, and”.
- (3) In subsection (6)—
- (a) after “regulations made” insert “by the Welsh Ministers”, and
- (b) omit paragraphs (a) and (b).

Commencement Information

I99 Sch. 3 para. 18 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 19 (1) Section 328A (appeal against determination of local authority in England not to amend statement following review) is repealed.

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- (2) In consequence of the repeal made by sub-paragraph (1), section 2 of the Children, Schools and Families Act 2010 is repealed.

Commencement Information

I100 Sch. 3 para. 19 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 20 (1) Section 329A (review or assessment of educational needs at request of responsible body) is amended as follows.
- (2) In subsection (14)—
- (a) after “ “Relevant early years education”” insert “ has the same meaning as it has (in relation to Wales) in section 123 of the School Standards and Framework Act 1998 except that it does not include early years education provided by a local authority at a maintained nursery school. ”, and
- (b) omit paragraphs (a) and (b).
- (3) In subsection (15)—
- (a) omit “, in relation to Wales,”, and
- (b) for “National Assembly for Wales” substitute “ Welsh Ministers ”.
- (4) In consequence of the amendments made by sub-paragraph (2), in paragraph 22 of Schedule 2 to the Childcare Act 2006, omit sub-paragraph (4).
- (5) Until the coming into force in relation to Wales of the amendments made by paragraph 22(2) and (3) of Schedule 2 to the Childcare Act 2006, section 329A of EA 1996 has effect as if for subsection (14) (as amended by sub-paragraph (2)) there were substituted—

“(14) Relevant nursery education” has the same meaning as in section 123 of the School Standards and Framework Act 1998, except that it does not include nursery education provided by a local authority at a maintained nursery school.”

Commencement Information

I101 Sch. 3 para. 20 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 21 (1) Section 332ZA (right of a child to appeal to the Welsh Tribunal) is amended as follows.
- (2) In subsection (1) omit “Welsh”.
- (3) In the title omit “Welsh”.

Commencement Information

I102 Sch. 3 para. 21 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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- 22 In section 332ZB (notice and service of documents on a child in relation to an appeal by the child), in subsection (1) omit “in Wales”.

Commencement Information

I103 Sch. 3 para. 22 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 23 (1) Section 332ZC (case friends—Wales) is amended as follows.
- (2) In subsection (1), in paragraph (a) omit “in Wales”.
- (3) In subsection (3), in paragraph (a) omit “Welsh”.
- (4) In the title, omit “—Wales”.

Commencement Information

I104 Sch. 3 para. 23 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 24 (1) Section 332A (advice and information for parents—England) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), section 2 of the Special Educational Needs and Disability Act 2001 is repealed.
- (3) The repeals made by sub-paragraphs (1) and (2) do not affect the application for the time being of section 332A to certain local authorities in Wales by virtue of article 4(a) of the Education (Wales) Measure 2009 (Commencement No 3 and Transitional Provisions) Order 2012 (SI 2012/320).

Commencement Information

I105 Sch. 3 para. 24 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 25 (1) Section 332AA (advice and information— Wales) is amended as follows.
- (2) In subsection (1) omit “in Wales”.
- (3) In the title, omit “— Wales”.

Commencement Information

I106 Sch. 3 para. 25 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 26 (1) Section 332B (resolution of disputes—England) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), section 3 of the Special Educational Needs and Disability Act 2001 is repealed.
- (3) The repeals made by sub-paragraphs (1) and (2) do not affect the application for the time being of section 332B to certain local authorities in Wales by virtue of article

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4(b) of the Education (Wales) Measure 2009 (Commencement No 3 and Transitional Provisions) Order 2012 (SI 2012/320).

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I107 Sch. 3 para. 26 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 27 (1) Section 332BA (resolution of disputes—Wales) is amended as follows.
- (2) In subsections (1) and (2) omit “in Wales”.
- (3) In the title, omit “—Wales”.

Commencement Information

I108 Sch. 3 para. 27 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 28 (1) Section 332BB (independent advocacy services—Wales) is amended as follows.
- (2) In subsections (1) and (5) omit “in Wales”.
- (3) In the title, omit “—Wales”.

Commencement Information

I109 Sch. 3 para. 28 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 29 (1) Sections 332C to 332E (information about children in England with special educational needs) are repealed, and the cross-heading which precedes section 332C is omitted.
- (2) In consequence of the repeals made by sub-paragraph (1), section 1 of the Special Educational Needs (Information) Act 2008 is repealed.

Commencement Information

I110 Sch. 3 para. 29 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 30 In the cross-heading which precedes section 333 (Special Educational Needs Tribunal) after “Tribunal” insert “ for Wales ”.

Commencement Information

I111 Sch. 3 para. 30 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 31 (1) Section 333 (constitution of Welsh Tribunal) is amended as follows.
- (2) Omit subsection (1ZB).

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- (3) In the following provisions, omit “Welsh”—
- (a) subsection (1),
 - (b) in subsection (2), paragraphs (a), (b) and (c),
 - (c) in subsection (5), paragraph (a), and paragraph (b) (in the first place it occurs), and
 - (d) subsection (6) (in the second place it occurs).
- (4) In the title, omit “Welsh”.

Commencement Information

II12 Sch. 3 para. 31 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 32 In section 335 (remuneration and expenses), in subsection (1) and (2) omit “Welsh” (in each case, in the second place it occurs).

Commencement Information

II13 Sch. 3 para. 32 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 33 (1) Section 336 (Tribunal procedure) is amended as follows.
- (2) In the following provisions omit “Welsh”—
- (a) subsection (1) (in the second place it occurs),
 - (b) in subsection (2), paragraphs (b), (o) and (p),
 - (c) subsection (2A),
 - (d) subsection (3) (in the second place it occurs), and
 - (e) subsection (4) (in the first place it occurs).
- (2) Omit subsection (5A).
- (3) In subsection (6) omit “or (5A)”.

Commencement Information

II14 Sch. 3 para. 33 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 34 (1) Section 336ZB (appeals from the Welsh Tribunal to the Upper Tribunal) is amended as follows.
- (2) In the following provisions, omit “Welsh”—
- (a) subsection (1) (in both places it occurs),
 - (b) subsection (2), and
 - (c) subsection (3).
- (3) In the title, omit “Welsh”.

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I115 Sch. 3 para. 34 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 35 In section 336A (compliance with orders), in subsection (2)—
- (a) after “made” insert “ by the Welsh Ministers with the agreement of the Secretary of State. ”, and
 - (b) omit paragraphs (a) and (b).

Commencement Information

I116 Sch. 3 para. 35 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 36 For section 337 (special schools) substitute—

“337 Special schools

A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs, and it is—

- (a) maintained by a local authority,
- (b) an Academy school, or
- (c) a non-maintained special school.”

Commencement Information

I117 Sch. 3 para. 36 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 37 In section 342 (approval of non-maintained special schools), in subsection (1)(b) after “community or foundation special school” insert “ or an Academy school ”.

Commencement Information

I118 Sch. 3 para. 37 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 38 (1) Section 348 (provision of special education at non-maintained schools) is amended as follows.
- (2) In subsection (1) after paragraph (a) (and before the “and” which follows it) insert—
“(aa) the child is in the area of a local authority in Wales,”.
 - (3) In the title, at the end insert “ —Wales ”.

Commencement Information

I119 Sch. 3 para. 38 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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- 39 (1) Section 438 (choice of school: child without statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”, and
- (b) after “section 324” insert “ (in the case of a local authority in Wales) ”.
- (3) In the title, after “without” insert “ EHC plan or ”.

Commencement Information

I120 Sch. 3 para. 39 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 40 (1) Section 440 (amendment of order at request of parent: child without statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”, and
- (b) after “section 324” insert “ (in the case of a local authority in Wales) ”.
- (3) In the title, after “without” insert “ EHC plan or ”.

Commencement Information

I121 Sch. 3 para. 40 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 41 (1) Section 441 (choice of school: child with statement of special educational needs) is amended as follows.
- (2) In subsection (1)—
- (a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”, and
- (b) after “section 324” insert “ (in the case of a local authority in Wales) ”.
- (3) In subsection (2) after “Where the” insert “ EHC plan or ”.
- (4) In subsection (3)—
- (a) after “Where the” insert “ EHC plan or ”, and
- (b) after “amend the” insert “ EHC plan or ”.
- (5) After subsection (3A) insert—
- “(3B) An amendment to an EHC plan required to be made under subsection (3) (a) shall be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and regulations made under it apply accordingly.”
- (6) In subsection (4)—
- (a) in paragraph (a) after “maintain” insert “ an EHC plan or ”, and
- (b) in paragraph (b) after “specified in the” insert “ plan or ”.

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(7) In the title, after “with” insert “ EHC plan or ”.

Commencement Information

I122 Sch. 3 para. 41 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 42 In section 442 (revocation of order at request of parent), in subsection (5)—
- (a) after “maintain” insert “ an EHC plan (in the case of a local authority in England) or ”,
 - (b) after “section 324” insert “ (in the case of a local authority in Wales) ”,
 - (c) in paragraph (a) after “specified in” insert “ the EHC plan or ”, and
 - (d) in paragraph (b) after “in the” insert “ plan or the ”.

Commencement Information

I123 Sch. 3 para. 42 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 43 In section 463 (meaning of “independent school”)—
- (a) in subsection (1)(b), after “for whom” insert “ an EHC plan is maintained or for whom ”, and
 - (b) in subsection (1), for “or a special school not so maintained” substitute “ non-maintained special school ”.

Commencement Information

I124 Sch. 3 para. 43 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 44 (1) Section 483A (city colleges and academies: special educational needs) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “a statement is maintained under section 324” substitute “ an EHC plan or a statement under section 324 is maintained ”.
 - (3) In subsection (3), in paragraph (a) for “the statement” substitute “ the EHC plan ”.
 - (4) In subsection (4), in paragraphs (a) and (b) after “specified in” insert “ the plan or ”.

Commencement Information

I125 Sch. 3 para. 44 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 45 In section 507B (local authorities in England: functions in respect of leisure-time activities etc for persons aged 13 to 19 and certain persons aged 20 to 24), in subsection (2)(b) after “learning difficulty” insert “ or disability ”.

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Commencement Information

I126 Sch. 3 para. 45 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 46 In section 508F (local authorities in England: provision of transport etc for adult learners), in subsection (9) in the definition of “relevant young adult” for “who is aged under 25 and is subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”.

Commencement Information

I127 Sch. 3 para. 46 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 47 In the title of section 508I (complaints about transport arrangements etc for young adults subject to learning difficulty assessment: England), for “adults subject to learning difficulty assessment” substitute “ adult for whom EHC plan is maintained ”.

Commencement Information

I128 Sch. 3 para. 47 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 48 (1) Section 509AB (local authorities in England: further provision about transport policy statements for persons of sixth form age) is amended as follows.
- (2) In subsection (1) after “difficulties” insert “ or disabilities ”.
- (3) In subsection (2)(b) after “difficulties” (in each place it occurs) insert “ or disabilities ”.

Commencement Information

I129 Sch. 3 para. 48 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 49 In section 509AC (interpretation of sections 509AA and 509AB), in subsection (4) after “learning difficulties” insert “ or disabilities ”.

Commencement Information

I130 Sch. 3 para. 49 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 50 (1) Section 514A (provision of boarding accommodation for persons subject to learning difficulty assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “who is” insert “ over compulsory school age and for whom an EHC plan is maintained. ”, and

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(b) omit paragraphs (a) and (b).

(3) In the title, for “persons subject to learning difficulty assessment” substitute “ person for whom an EHC plan is maintained ”.

Commencement Information

I131 Sch. 3 para. 50 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

51 In section 517 (payment of fees at schools not maintained by a local authority), in subsection (1), for “or Part IV (special educational needs)” substitute “ , Part 4 (special educational needs) or Part 3 of the Children and Families Act 2014 (children and young people in England with special educational needs or disabilities) ”.

Commencement Information

I132 Sch. 3 para. 51 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

52 (1) Section 532A (direct payments: persons with special educational needs or subject to learning difficulty assessment) is amended as follows.

(2) In subsection (1)—

- (a) after “(“the beneficiary”)” insert “ for whom the authority maintain an EHC plan. ”, and
 (b) omit paragraphs (a) and (b).

(3) In subsection (2)—

- (a) for paragraph (a) substitute—
 “(a) special educational provision specified in the EHC plan;”,
 and
 (b) omit paragraph (b).

(4) In the title, omit “or subject to learning difficulty assessment”.

Commencement Information

I133 Sch. 3 para. 52 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

53 In section 532B (direct payments: pilot schemes), in subsection (9) for paragraph (a) substitute—

- “(a) section 42(2) of the Children and Families Act 2014 (duty to secure special educational provision in accordance with EHC plan);”.

Commencement Information

I134 Sch. 3 para. 53 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

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- 54 In section 560A (work experience for persons over compulsory school age), in subsection (1)(b) for “but under 25 and are subject to learning difficulty assessment” substitute “ and for whom an EHC plan is maintained ”.

Commencement Information

I135 Sch. 3 para. 54 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

- 55 (1) Section 562C (detained persons with special educational needs) is amended as follows.
- (2) In subsection (1), after “local authority” insert “ in Wales ”.
- (3) In the title, after “with” insert “ statement of ”.

Commencement Information

I136 Sch. 3 para. 55 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 56 In section 562D (appropriate special educational provision: arrangements between local authorities), in subsection (2) after “local authority” insert “ in Wales ”.

Commencement Information

I137 Sch. 3 para. 56 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 57 (1) Section 562G (information to be provided where statement of special educational needs previously maintained) is amended as follows.
- (2) In subsection (1) after “local authority” insert “ in Wales ”.
- (3) In subsection (2) after “home authority” insert “ , where they are a local authority in Wales, ”.
- (4) In subsection (4) after “local authority” insert “ in Wales ”.
- (5) In subsection (5) after “local authority” insert “ in Wales ”.
- (6) In subsection (7)—
- (a) in paragraph (a) after “home authority” insert “ , where they are a local authority in Wales ”, and
- (b) in paragraph (b) after “authority” insert “ in Wales ”.
- (7) In subsection (8)—
- (a) after “home authority”, where it first occurs insert “ , where they are a local authority in Wales ”, and
- (b) in paragraph (a) after “local authority” insert “ in Wales ”.

Commencement Information

I138 Sch. 3 para. 57 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

Status: Point in time view as at 09/12/2021.

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- 58 (1) Section 562H (release of detained person appearing to host authority to require assessment) is amended as follows.
- (2) In subsection (1)—
- (a) after “person” insert “—
- (a)”,
- and
- (b) after “apply” insert “, and
- (b) for whom the home authority are a local authority in Wales.”
- (3) In subsection (4), for “Subsections (5) and (6) apply” substitute “ Subsection (6) applies ”.
- (4) Omit subsection (5).
- (5) In subsection (6), omit paragraph (b) and the “and” preceding it.

Commencement Information

I139 Sch. 3 para. 58 in force at 1.4.2015 by S.I. 2015/375, art. 2(e)

- 59 In section 579 (general interpretation)—
- (a) in subsection (1), after the definition of “education functions” insert—
- ““EHC plan” means a plan within section 37(2) of the Children and Families Act 2014;”,
- (b) in subsection (1), after the definition of “school year” insert—
- ““special educational needs”—
- (a) in relation to a child or person over compulsory school age but under 25 in the area of a local authority in England, has the meaning given by section 20(1) of the Children and Families Act 2014;
- (b) in relation to a child in the area of a local authority in Wales, has the meaning given by section 312;
- “special educational provision”—
- (a) in relation to a person in the area of a local authority in England, has the meaning given by section 21(1) and (2) of the Children and Families Act 2014;
- (b) in relation to a child in the area of a local authority in Wales, has the meaning given by section 312(4);”,
- (c) after subsection (1) insert—
- “(1A) For the purposes of this Act a person is subject to learning difficulty assessment if—
- (a) an assessment under section 140 of the Learning and Skills Act 2000 (learning difficulty assessments: Wales) has been conducted in respect of the person, or
- (b) arrangements for such an assessment to be conducted in respect of the person have been made or are required to be made.”, and
- (d) before subsection (4) insert—

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“(3A) References in this Act to a person who is “in the area” of a local authority in England do not include a person who is wholly or mainly resident in the area of a local authority in Wales.

(3B) References in this Act to a person who is “in the area” of a local authority in Wales do not include a person who is wholly or mainly resident in the area of a local authority in England.”

Commencement Information

I140 Sch. 3 para. 59 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

60

In section 580 (index)—

(a) after the entry for “education functions” insert—

“EHC plan	section 579(1)”,
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(b) after the entry for “interest in land” insert—

“in the area of a local authority in England	section 579(3A)
in the area of a local authority in Wales	section 579(3B)”,

(c) for the entry for “learning difficulty” substitute—

“learning difficulty (in relation to a child in the area of a local authority in Wales)	section 312(2) and (3) (subject to subsection (3A))”,
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(d) in the entry for “special educational needs”, in the second column for “section 312(1)” substitute “ section 579(1) ”,

(e) in the entry for “special educational provision”, in the second column for “section 312(4)” substitute “ section 579(1) ”,

(f) in the entry for “special school”, in the second column for “sections 6(2) and” substitute “ section ”, and

(g) in the entry for “subject to learning difficulty assessment”, in the second column for “section 13(4)” substitute “ section 579(1A) ”.

Commencement Information

I141 Sch. 3 para. 60 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

61

In Schedule 35B (meaning of “eligible child” for purposes of section 508B), in paragraph 15(3)—

(a) in paragraph (a) for “statement maintained for the child under section 324” substitute “ EHC plan maintained for the child ”, and

(b) in paragraph (b) for “statement” substitute “ plan ”.

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Commencement Information

I142 *Sch. 3 para. 61* in force at 1.9.2014 by *S.I. 2014/889, art. 7(a)* (with savings and transitional provisions in *S.I. 2014/2270* (as amended (1.4.2015) by *S.I. 2015/505* and (1.9.2015) by *S.I. 2015/1619*))

- 62 (1) In Schedule 36A (education functions), the table in paragraph 2 is amended as follows.
- (2) In the entry for the Disabled Persons (Services, Consultation and Representation) Act 1986, in the second column after “child with” insert “ an EHC plan or ”.
- (3) In the entry for the Learning and Skills Act 2000, omit the entry for section 139A.

Commencement Information

I143 *Sch. 3 para. 62* in force at 1.9.2014 by *S.I. 2014/889, art. 7(a)* (with savings and transitional provisions in *S.I. 2014/2270* (as amended (1.4.2015) by *S.I. 2015/505* and (1.9.2015) by *S.I. 2015/1619*))

PART 2

AMENDMENTS TO OTHER ACTS

Local Government Act 1974 (c. 7)

- 63 In Schedule 5 to the Local Government Act 1974 (matters not subject to investigation by Local Commissioners), in paragraph 5(2)(b) for “by section 312” substitute “ by section 579(1) ”.

Commencement Information

I144 *Sch. 3 para. 63* in force at 1.9.2014 by *S.I. 2014/889, art. 7(a)*

Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 64 (1) In the Disabled Persons (Services, Consultation and Representation) Act 1986, section 5 (disabled persons leaving special education) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “needs)” insert “ , or have maintained an EHC plan under section 37 of the Children and Families Act 2014, ”, and
- (b) in paragraph (b) after “statement” (in both places) insert “ or plan ”.
- (3) In subsection (2)—
- (a) in paragraph (a) after “statement” insert “ , or secure the preparation of an EHC plan, ”,
- (b) in paragraph (b) after “statement” insert “ or plan ”, and
- (c) after “making the statement” insert “ , securing the preparation of the plan ”.
- (4) After subsection (8) insert—

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“(8A) Regulations under section 47 of the Children and Families Act 2014 (transfer of EHC plans) may make such provision as appears to the Secretary of State to be necessary or expedient in connection with subsections (1) to (7) of this section.”

(5) In subsection (9), in paragraph (a) of the definition of “the responsible authority”, after “1996” insert “ or (as the case may be) Part 3 of the Children and Families Act 2014 ”.

Commencement Information

I145 Sch. 3 para. 64 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Children Act 1989 (c. 41)

65 (1) The Children Act 1989 is amended as follows.

(2) In section 23E (pathway plans), in subsection (1A)(a) after “Education Act 1996” insert “ or Part 3 of the Children and Families Act 2014 ”.

(3) In Part 1 of Schedule 2 (provision of services to families) in paragraph 3 (assessment of children's needs) after paragraph (b) insert—
“(ba) Part 3 of the Children and Families Act 2014;”.

Commencement Information

I146 Sch. 3 para. 65 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Value Added Tax Act 1994 (c. 23)

66 (1) In Schedule 9 to the Value Added Tax Act 1994, in Part 2 (groups of goods and services the supply of which is exempt from VAT), group 6 (education) is amended as follows.

(2) In item 5B—

(a) after paragraph (b) insert—

“(ba) aged 19 or over and for whom an EHC plan is maintained,”
and

(b) in paragraph (d), after “paragraph” insert “ (ba) or ”.

(3) in note (5B), after “item (5B),” insert “ “EHC plan” and ” and for “has the same meaning” substitute “ have the same meanings ”.

Commencement Information

I147 Sch. 3 para. 66 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

School Standards and Framework Act 1998 (c. 31)

67 The School Standards and Framework Act 1998 is amended as follows.

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Commencement Information

I148 Sch. 3 para. 67 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 68 (1) Section 98 (admission for nursery education or to nursery or special school: children with statements of special educational needs) is amended as follows.
- (2) In subsection (7) after “for whom” insert “ EHC plans are maintained under section 37 of the Children and Families Act 2014 or ”.
- (3) In the title after “special education needs” insert “ or EHC plans ”.

Commencement Information

I149 Sch. 3 para. 68 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 69 (1) Section 123 (nursery education: children with special educational needs) is amended as follows.
- (2) In subsection (1), for the words from “(except” to the end substitute “ to have regard to the provisions of the code of practice issued under section 77 of the Children and Families Act 2014 (in the case of education in England) or section 313(2) of the Education Act 1996 (in the case of education in Wales). ”
- (3) After subsection (1) insert—
- “(1A) Subsection (1) does not apply in so far as the person in question is already under a duty to have regard to the provisions of the code of practice in question.”
- (4) In subsection (2)—
- (a) for “That code of practice” substitute “ The code of practice in question ”, and
- (b) after “functions under” insert “ Part 3 of the Children and Families Act 2014 or (as the case may be) ”.
- (5) In subsection (3)—
- (a) for “that code of practice” substitute “ the code of practice in question ”, and
- (b) after “functions under” insert “ Part 3 of the Children and Families Act 2014 or (as the case may be) ”.
- (6) In subsection (3A)(b) after “no” insert “ EHC plan or ”.

Commencement Information

I150 Sch. 3 para. 69 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 70 In Part A1 of Schedule 22 (disposals of land in case of foundation, voluntary and foundation special schools in England), in paragraph A23(9), in paragraph (d) of the definition of “children's services”—
- (a) after “learning difficulty” insert “ or disability ”, and
- (b) omit “66,”.

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Commencement Information

I151 Sch. 3 para. 70 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Learning and Skills Act 2000 (c. 21)

71 The Learning and Skills Act 2000 is amended as follows.

Commencement Information

I152 Sch. 3 para. 71 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

72 In section 35 (conditions imposed by Welsh Ministers on financial resources provided by them), in subsection (3)(f) omit “139A or”.

Commencement Information

I153 Sch. 3 para. 72 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

73 In section 41 (discharge by the Welsh Ministers of certain functions in relation to persons with learning difficulties), in subsection (1)(b) omit “139A or”.

Commencement Information

I154 Sch. 3 para. 73 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

74 Sections 139A, 139B and 139C (assessments relating to learning difficulties: England) are repealed.

Commencement Information

I155 Sch. 3 para. 74 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

75 In consequence of the repeals made by paragraphs 72, 73 and 74—
(a) omit paragraph 76 of Schedule 1 to the Education and Skills Act 2008;
(b) section 80 of the Education and Skills Act 2008 is repealed.

Commencement Information

I156 Sch. 3 para. 75 in force at 1.9.2014 by S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505 and (1.9.2015) by S.I. 2015/1619)

Education Act 2002 (c. 32)

76 The Education Act 2002 is amended as follows.

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Commencement Information

I157 Sch. 3 para. 76 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 77 In section 92 (pupils with statements of special educational needs: application of National Curriculum for England)—
- (a) for the words from “a statement” to “special educational needs” substitute “an EHC plan maintained for the pupil”,
 - (b) for “the statement” substitute “the plan”, and
 - (c) in the heading for “statements of special educational needs” substitute “EHC plans”.

Commencement Information

I158 Sch. 3 para. 77 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 78 (1) Section 94 (information concerning directions under section 93) is amended as follows.
- (2) In subsection (3), for the words from “by virtue of” to the end substitute “and the responsible authority ought to be required to secure an EHC needs assessment for the pupil under section 36 of the Children and Families Act 2014 (or, if an EHC plan is maintained for the pupil, a re-assessment under section 44 of that Act).”
 - (3) In subsection (5), for the words from “consider” to the end substitute “make a determination in respect of the pupil under section 36(3) of the Children and Families Act 2014 (or, if an EHC plan is maintained for the pupil, under that section as it applies to re-assessments by virtue of regulations under section 44(7)).”
 - (4) In subsection (6), for “Part 4 of the Education Act 1996” substitute “Part 3 of the Children and Families Act 2014 (see section 24 of that Act)”.

Commencement Information

I159 Sch. 3 para. 78 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 79 (1) Section 36 of the Nationality, Immigration and Asylum Act 2002 (education of children who are residents of accommodation centres) is amended as follows.
- (2) In subsection (3)(b), after “named in” insert “an EHC plan maintained for the child under section 37 of the Children and Families Act 2014 or”.
 - (3) In subsection (5), omit the “and” after paragraph (d) and after paragraph (e) insert—
 - “(f) sections 33 and 34 of the Children and Families Act 2014 (mainstream education for children with special educational needs), and
 - (g) sections 38 and 39 of that Act (EHC plan: request of parent for named school etc).”
 - (4) After subsection (5) insert—

Status: Point in time view as at 09/12/2021.

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“(5A) The powers of the First-tier Tribunal on determining an appeal under section 51(2)(c) of the Children and Families Act 2014 (appeals against certain aspects of content of EHC plan) are subject to subsection (2) above.”

(5) In subsection (6), omit “the First-tier Tribunal or”.

(6) In subsection (7)—

(a) after “function under this Act” insert “, Part 3 of the Children and Families Act 2014”, and

(b) in paragraph (a), after “special educational provision” insert “ called for by his special educational needs or ”.

(7) In subsection (9), after paragraph (a) insert—

“(aa) section 36 of the Children and Families Act 2014 (assessment of education, health and care needs: England) shall have effect as if an accommodation centre were a school.”.

Commencement Information

I160 Sch. 3 para. 79 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Children Act 2004 (c. 31)

80 In section 10(9) of the Children Act 2004 (co-operation arrangements in respect of children may include arrangements in respect of certain young people), in paragraph (c)—

(a) after “but under the age of 25” insert “—

(i) for whom an EHC plan is maintained, or

(ii)”,

and

(b) after “learning difficulty” insert “ or disability ”.

Commencement Information

I161 Sch. 3 para. 80 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Education and Inspections Act 2006 (c. 40)

81 In section 16 of the Education and Inspections Act 2006 (consultation before publishing proposals for discontinuance of maintained schools), in subsection (1) (c), after “maintain” insert “ an EHC plan or ”.

Commencement Information

I162 Sch. 3 para. 81 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Education and Skills Act 2008 (c. 25)

82 The Education and Skills Act 2008 is amended as follows.

Status: Point in time view as at 09/12/2021.

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Commencement Information

I163 Sch. 3 para. 82 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 83 In section 4 (meaning of appropriate full-time education or training)—
- (a) in subsection (1)(b), for “learning difficulty” substitute “ special educational needs ”, and
 - (b) omit subsection (3).

Commencement Information

I164 Sch. 3 para. 83 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 84 In section 17 (sharing and use of information held for purposes of support services or functions under Part 1), in subsection (8)(b)—
- (a) for “a learning difficulty” substitute “ special educational needs ”, and
 - (b) omit the words from “and subsections (6) and (7)” to the end.

Commencement Information

I165 Sch. 3 para. 84 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 85 In section 47 (attendance notice: description of education or training)—
- (a) in subsection (5)(b)(ii), for “learning difficulty” substitute “ special educational needs ”, and
 - (b) omit subsection (6).

Commencement Information

I166 Sch. 3 para. 85 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 86 In section 78(1) (Part 2: supplementary), in the definition of “relevant young adult”—
- (a) for “a learning difficulty” substitute “ special educational needs (within the meaning given by section 579(1) of the Education Act 1996) ”, and
 - (b) omit the words from “and subsections (6) and (7)” to the end.

Commencement Information

I167 Sch. 3 para. 86 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 87 In section 132 (providers of independent education or training for 16 to 18 year olds)—
- (a) in subsection (4)(a), for the words from “a statement” to “needs)” substitute “ an EHC plan is maintained ”,
 - (b) in subsection (4)(b), for “a statement was so” substitute “ an EHC plan was ”,
 - (c) in subsection (4)(b)(i), after “school” insert “ or (if later) the person ceased to be a student at his or her last post-16 institution ”,

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- (d) in subsection (4)(b)(ii), after “institution” insert “ in England mentioned in subsection (2) ”, and
- (e) in subsection (6), after the definition of “an academic year” insert—
““post-16 institution” has the meaning given by section 83(2) of the Children and Families Act 2014;”.

Commencement Information

I168 Sch. 3 para. 87 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)

- 88 The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

Commencement Information

I169 Sch. 3 para. 88 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 89 In section 83 (power to secure provision of apprenticeship training)—
- (a) in subsection (1)(b), for “are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”,
 - (b) in subsection (2)(b), for “learning difficulties” substitute “ special educational needs ”, and
 - (c) omit subsection (4).

Commencement Information

I170 Sch. 3 para. 89 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 90 In section 86 (education and training for persons aged 19 or over etc), in subsection (1)(a), for “who are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”.

Commencement Information

I171 Sch. 3 para. 90 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 91 In section 87 (learning aims for persons aged 19 or over: provision of facilities), in subsection (3)(a), for “who are subject to learning difficulty assessment” substitute “ for whom an EHC plan is maintained ”.

Commencement Information

I172 Sch. 3 para. 91 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 92 In section 101 (financial resources: conditions), in subsection (5)(f)—
- (a) after “specified in” insert “ an EHC plan or ”, and
 - (b) omit “139A or”.

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Commencement Information

I173 Sch. 3 para. 92 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 93 In section 115 (persons with learning difficulties)—
- (a) in subsection (1), for “learning difficulties” substitute “special educational needs”;
 - (b) in subsection (2)(a), for “who are subject to learning difficulty assessment” substitute “for whom an EHC plan is maintained”;
 - (c) omit subsections (3) and (4), and
 - (d) in the title, for “learning difficulties” substitute “special educational needs”.

Commencement Information

I174 Sch. 3 para. 93 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

- 94 In section 129 (general duties of Ofqual)—
- (a) in subsection (2)(b) and (c), for “learning difficulties” substitute “special educational needs”, and
 - (b) omit subsections (9) and (10).

Commencement Information

I175 Sch. 3 para. 94 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Academies Act 2010 (c. 32)

- 95 In section 1 of the Academies Act 2010 (Academy arrangements), omit subsections (7) and (8).

Commencement Information

I176 Sch. 3 para. 95 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

- 96 In paragraph 2 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services: special educational needs)—
- (a) in sub-paragraph (1)(a), after “1996” insert “or Part 3 of the Children and Families Act 2014”, and
 - (b) in sub-paragraph (1)(b), for “sections 139A and” substitute “section”.

Commencement Information

I177 Sch. 3 para. 96 in force at 1.9.2014 by S.I. 2014/889, art. 7(a)

Status: Point in time view as at 09/12/2021.

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SCHEDULE 4

Section 84

CHILDMINDER AGENCIES: AMENDMENTS

PART 1

THE CHILDCARE REGISTERS

1 The Childcare Act 2006 is amended as follows.

Commencement Information

I178 Sch. 4 para. 1 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I179 Sch. 4 para. 1 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 2 (1) Section 32 (childcare registration in England: maintenance of the two childcare registers) is amended as follows.
- (2) In subsection (2)—
- (a) after “register of” insert “—
(a)”,
 - (b) omit “who are”, and
 - (c) for “under Chapter 2” substitute “ by the Chief Inspector for the purposes of Chapter 2 ”.
- (3) At the end of that subsection insert “, and
- (b) all persons registered as early years childminder agencies under Chapter 2A (which provides for the compulsory registration of persons with whom early years childminders and certain other early years providers may register for the purposes of Chapter 2).”
- (4) In subsection (4)—
- (a) after “register of” insert “—
(a)”,
 - (b) omit “who are”, and
 - (c) for “under Chapter 3” substitute “ by the Chief Inspector for the purposes of Chapter 3 ”.
- (5) At the end of that subsection insert “, and
- (b) all persons registered as later years childminder agencies under Chapter 3A (which provides for the compulsory registration of persons with whom later years childminders and certain other later years providers may register for the purposes of Chapter 3).”
- (6) In subsection (5), for “under Chapter 4” substitute “ by the Chief Inspector for the purposes of Chapter 4 ”.

Commencement Information

I180 Sch. 4 para. 2 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I181 Sch. 4 para. 2 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

Status: Point in time view as at 09/12/2021.

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PART 2

EARLY YEARS CHILDMINDER AGENCIES

3 The Childcare Act 2006 is amended as follows.

Commencement Information

- I182** Sch. 4 para. 3 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)
I183 Sch. 4 para. 3 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

4 In section 33 (requirement to register: early years childminders), in subsection (1) for “in the early years register as an early years childminder” substitute “as an early years childminder—

- (a) in the early years register, or
- (b) with an early years childminder agency.”

Commencement Information

- I184** Sch. 4 para. 4 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)
I185 Sch. 4 para. 4 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

5 (1) Section 34 (requirement to register: other early years providers) is amended as follows.

(2) For subsection (1) substitute—

“(1) A person may not provide early years provision on premises in England which are not domestic premises unless the person is registered in the early years register in respect of the premises.

(1A) A person may not provide early years provision on domestic premises in England which would be early years childminding but for section 96(5) unless the person is registered—

- (a) in the early years register in respect of the premises, or
- (b) with an early years childminder agency in respect of the premises.”

(3) In subsection (2) for “Subsection (1) does” substitute “Subsections (1) and (1A) do”.

(4) In subsection (3) for “subsection (1) does” substitute “subsections (1) and (1A) do”.

(5) In subsection (5) after “subsection (1)” insert “ or (1A) ”.

Commencement Information

- I186** Sch. 4 para. 5 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)
I187 Sch. 4 para. 5 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

6 (1) Section 35 (applications for registration: early years childminders) is amended as follows.

(2) In subsection (1) for “to the Chief Inspector for registration as an early years childminder” substitute “—

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- (a) to the Chief Inspector for registration as an early years childminder in the early years register, or
 - (b) to an early years childminder agency for registration with that agency as an early years childminder.”
- (3) In subsection (2)—
- (a) in paragraph (b) after “Chief Inspector” insert “ or (as the case may be) the early years childminder agency ”, and
 - (b) in paragraph (c) at the beginning insert “ if it is an application to the Chief Inspector, ”.
- (4) In subsections (3) and (4), after “subsection (1)” insert “ (a) ”.
- (5) After subsection (4) insert—
- “(4A) An early years childminder agency may grant an application under subsection (1)(b) only if—
- (a) the applicant is not disqualified from registration by regulations under section 75,
 - (b) it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied, and
 - (c) it appears to the agency that any other reasonable requirements it has imposed are satisfied and are likely to continue to be satisfied.”
- (6) In subsection (5), after paragraph (a) insert—
- “(aa) prohibiting the applicant from being registered in the early years register as an early years childminder if the applicant is registered with a childminder agency;
 - (ab) prohibiting the applicant from being registered with an early years childminder agency as an early years childminder if the applicant is registered—
 - (i) with another childminder agency;
 - (ii) in the early years register or the general childcare register;”.

Commencement Information

I188 Sch. 4 para. 6 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I189 Sch. 4 para. 6 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 7 (1) Section 36 (applications for registration: other early years providers) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) A person who proposes to provide on any premises early years provision in respect of which the person is required by section 34(1A) to be registered may make an application—
- (a) to the Chief Inspector for registration as an early years provider in respect of the premises, or
 - (b) to an early years childminder agency for registration with that agency as an early years provider in respect of the premises.”

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- (3) In subsection (2)—
- (a) after “subsection (1)” insert “ or (1A) ”,
 - (b) in paragraph (b) after “Chief Inspector” insert “ or (as the case may be) the early years childminder agency ”, and
 - (c) in paragraph (c) at the beginning insert “ if it is an application to the Chief Inspector, ”.
- (4) In subsections (3) and (4), after “subsection (1)” insert “ or (1A)(a) ”.
- (5) After subsection (4) insert—
- “(4A) An early years childminder agency may grant an application under subsection (1A)(b) only if—
- (a) the applicant is not disqualified from registration by regulations under section 75,
 - (b) it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied, and
 - (c) it appears to the agency that any other reasonable requirements it has imposed are satisfied and are likely to continue to be satisfied.”
- (6) In subsection (5), after paragraph (a) insert—
- “(aa) prohibiting the applicant from being registered in the early years register as an early years provider other than a childminder if the applicant is registered with a childminder agency;
 - (ab) prohibiting the applicant from being registered with an early years childminder agency as an early years provider other than a childminder if the applicant is registered—
 - (i) with another childminder agency;
 - (ii) in the early years register or the general childcare register;”.

Commencement Information

I190 Sch. 4 para. 7 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I191 Sch. 4 para. 7 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 8 (1) Section 37 (entry on the register and certificates) is amended as follows.
- (2) In subsection (1) after “section 35(1)” insert “ (a) ”.
- (3) In subsection (2) after “section 36(1)” insert “ or (1A)(a) ”.

Commencement Information

I192 Sch. 4 para. 8 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I193 Sch. 4 para. 8 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 9 After section 37 insert—

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“37A Early years childminder agencies: registers and certificates

- (1) If an application under section 35(1)(b) is granted, the early years childminder agency must—
 - (a) register the applicant in the register maintained by the agency as an early years childminder, and
 - (b) give the applicant a certificate of registration stating that he or she is so registered.
- (2) If an application under section 36(1A)(b) is granted, the early years childminder agency must—
 - (a) register the applicant in the register maintained by the agency as an early years provider other than a childminder, in respect of the premises in question, and
 - (b) give the applicant a certificate of registration stating that he or she is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the early years childminder agency must give the registered early years provider an amended certificate.”

Commencement Information

I194 Sch. 4 para. 9 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I195 Sch. 4 para. 9 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 10 In section 38 (conditions on registration), in subsections (1) and (5) for “under this Chapter” substitute “ in the early years register ”.

Commencement Information

I196 Sch. 4 para. 10 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I197 Sch. 4 para. 10 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 11 (1) Section 44 (instruments specifying learning and development or welfare requirements) is amended as follows.
- (2) In subsection (2)—
 - (a) after “Chief Inspector” insert “ or early years childminder agencies ”, and
 - (b) omit “his”.
 - (3) In subsection (3) after “Chief Inspector” insert “ or early years childminder agencies ”.
 - (4) In subsection (4) after paragraph (a) (and before the “or” which follows it) insert—
 - “(aa) by early years childminder agencies in the exercise of functions under this Part,”.

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Commencement Information

I198 Sch. 4 para. 11 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I199 Sch. 4 para. 11 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 12 In section 49 (inspections), in subsection (1) for “under this Chapter” substitute “in the early years register”.

Commencement Information

I200 Sch. 4 para. 12 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I201 Sch. 4 para. 12 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 13 After Chapter 2 (regulation of early years provision) insert—

“CHAPTER 2A

REGULATION OF EARLY YEARS CHILDMINDER AGENCIES

Process of registration

Applications for registration

51A(1) A person may make an application to the Chief Inspector for registration as an early years childminder agency.

- (2) An application under subsection (1) must—
- (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.
- (3) The Chief Inspector must grant an application under subsection (1) if—
- (a) the applicant is not disqualified from registration by regulations under section 76A, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require the Chief Inspector to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
- (a) the applicant;
 - (b) any persons employed by the applicant;
 - (c) management and control of the applicant (where the applicant is not an individual);
 - (d) the provision to the Chief Inspector of information about early years providers registered with the applicant;

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- (e) the applicant's arrangements for registering early years providers;
- (f) the applicant's arrangements in relation to training and monitoring early years providers and providing such persons with information, advice and assistance;
- (g) the applicant's arrangements for ensuring that early years provision is of a sufficient standard.

Entry on the register and certificates

- 51B (1) If an application under section 51A is granted, the Chief Inspector must—
- (a) register the applicant in the early years register as an early years childminder agency, and
 - (b) give the applicant a certificate of registration stating that the applicant is so registered.
- (2) A certificate of registration given to the applicant in pursuance of subsection (1) must contain prescribed information about prescribed matters.
- (3) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the early years childminder agency an amended certificate.
- (4) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the early years childminder agency a copy, on payment by the agency of any prescribed fee.

Conditions on registration

- 51C (1) The Chief Inspector may impose such conditions as the Chief Inspector thinks fit on the registration of an early years childminder agency under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 51B or at any subsequent time.
 - (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
 - (4) An early years childminder agency commits an offence if, without reasonable excuse, the agency fails to comply with any condition imposed under subsection (1).
 - (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Inspections

Inspections of early years childminder agencies

- 51D (1) The Chief Inspector—
- (a) must inspect an early years childminder agency at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and

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- (b) may inspect an early years childminder agency at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (2) For the purposes of an inspection under this section, the Chief Inspector may inspect early years provision provided by early years providers who are registered with the early years childminder agency for the purposes of Chapter 2.
- (3) The Chief Inspector may charge a prescribed fee for conducting an inspection of an early years childminder agency where—
 - (a) the inspection is conducted at the request of the agency, and
 - (b) the Chief Inspector is required by the Secretary of State under subsection (1)(a) to conduct that inspection.
- (4) Regulations may make provision requiring an early years childminder agency to notify prescribed persons of the fact that it is to be inspected under this section.

Reports of inspections

- 51E (1) After conducting an inspection under section 51D, the Chief Inspector must make a report in writing on—
- (a) the quality and standards of the services offered by the early years childminder agency to early years providers registered with it,
 - (b) the quality of leadership and management in the early years childminder agency, and
 - (c) the effectiveness of the arrangements of the early years childminder agency for assuring itself of the quality of the care and education provided by the early years providers registered with it.
- (2) The Chief Inspector—
- (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
 - (b) must ensure that a copy of the report is sent without delay to the early years childminder agency,
 - (c) must ensure that copies of the report, or such parts of it as the Chief Inspector considers appropriate, are sent to such other persons as may be prescribed, and
 - (d) may arrange for the report (or parts of it) to be further published in any manner the Chief Inspector considers appropriate.
- (3) Regulations may make provision—
- (a) requiring the early years childminder agency to make a copy of any report sent to it under subsection (2)(b) available for inspection by prescribed persons;
 - (b) requiring the agency, except in prescribed cases, to provide a copy of the report to prescribed persons;
 - (c) authorising the agency in prescribed cases to charge a fee for providing a copy of the report.

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False representations

False representations

51F (1) A person who without reasonable excuse falsely represents that the person is an early years childminder agency commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

Commencement Information

I202 Sch. 4 para. 13 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I203 Sch. 4 para. 13 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

PART 3

LATER YEARS CHILDMINDER AGENCIES

14 The Childcare Act 2006 is amended as follows.

Commencement Information

I204 Sch. 4 para. 14 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I205 Sch. 4 para. 14 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

15 In section 52 (requirement to register: later years childminders for children under 8), in subsection (1) for “in Part A of the general childcare register as a childminder” substitute “as a later years childminder—

- (a) in Part A of the general childcare register, or
- (b) with a later years childminder agency.”

Commencement Information

I206 Sch. 4 para. 15 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I207 Sch. 4 para. 15 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

16 (1) Section 53 (requirement to register: other later years providers for children under 8) is amended as follows.

(2) For subsection (1) substitute—

“(1) A person may not provide, for a child who has not attained the age of eight, later years provision on premises in England which are not domestic premises unless the person is registered in Part A of the general childcare register in respect of the premises.

(1A) A person may not provide, for a child who has not attained the age of eight, later years provision on domestic premises in England which would be later years childminding but for section 96(9) unless the person is registered—

Status: Point in time view as at 09/12/2021.

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- (a) in Part A of the general childcare register in respect of the premises, or
- (b) with a later years childminder agency in respect of the premises.”
- (3) In subsection (2) for “Subsection (1) does” substitute “ Subsections (1) and (1A) do ”.
- (4) In subsection (3) for “subsection (1) does” substitute “ subsections (1) and (1A) do ”.
- (5) In subsection (5) after “subsection (1)” insert “ or (1A) ”.

Commencement Information

I208 Sch. 4 para. 16 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I209 Sch. 4 para. 16 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 17 (1) Section 54 (applications for registration: later years childminders) is amended as follows.
- (2) In subsection (1) for “to the Chief Inspector for registration as a later years childminder” substitute “—
- (a) to the Chief Inspector for registration as a later years childminder in Part A of the general childcare register, or
 - (b) to a later years childminder agency for registration with that agency as a later years childminder.”
- (3) In subsection (2)—
- (a) in paragraph (b) after “Chief Inspector” insert “ or (as the case may be) the later years childminder agency ”, and
 - (b) in paragraph (c) at the beginning insert “ if it is an application to the Chief Inspector, ”.
- (4) In subsections (3) and (4), after “subsection (1)” insert “ (a) ”.
- (5) After subsection (4) insert—
- “(4A) A later years childminder agency may grant an application under subsection (1)(b) only if—
- (a) the applicant is not disqualified from registration by regulations under section 75,
 - (b) it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied, and
 - (c) it appears to the agency that any other reasonable requirements it has imposed are satisfied and are likely to continue to be satisfied.”
- (6) In subsection (5), after paragraph (a) insert—
- “(aa) prohibiting the applicant from being registered in Part A of the general childcare register as a later years childminder if the applicant is registered with a childminder agency;
 - (ab) prohibiting the applicant from being registered with a later years childminder agency as a later years childminder if the applicant is registered—
 - (i) with another childminder agency;

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(ii) in the early years register or the general childcare register;”.

Commencement Information

I210 Sch. 4 para. 17 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I211 Sch. 4 para. 17 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 18 (1) Section 55 (applications for registration: other later years providers) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) A person who proposes to provide on any premises later years provision in respect of which the person is required by section 53(1A) to be registered may make an application—
- (a) to the Chief Inspector for registration as a later years provider in respect of the premises, or
- (b) to a later years childminder agency for registration with that agency as a later years provider in respect of the premises.”
- (3) In subsection (2)—
- (a) after “subsection (1)” insert “ or (1A) ”,
- (b) in paragraph (b) after “Chief Inspector” insert “ or (as the case may be) the later years childminder agency ”, and
- (c) in paragraph (c) at the beginning insert “ if it is an application to the Chief Inspector, ”.
- (4) In subsections (3) and (4), after “subsection (1)” insert “ or (1A)(a) ”.
- (5) After subsection (4) insert—
- “(4A) A later years childminder agency may grant an application under subsection (1A)(b) only if—
- (a) the applicant is not disqualified from registration by regulations under section 75,
- (b) it appears to the agency that the prescribed requirements for registration are satisfied and are likely to continue to be satisfied, and
- (c) it appears to the agency that any other reasonable requirements it has imposed are satisfied and are likely to continue to be satisfied.”
- (6) In subsection (5), after paragraph (a) insert—
- “(aa) prohibiting the applicant from being registered in Part A of the general childcare register as a later years provider other than a childminder if the applicant is registered with a childminder agency;
- (ab) prohibiting the applicant from being registered with a later years childminder agency as a later years provider other than a childminder if the applicant is registered—
- (i) with another childminder agency;
- (ii) in the early years register or the general childcare register;”.

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Commencement Information

I212 Sch. 4 para. 18 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I213 Sch. 4 para. 18 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 19 (1) Section 56 (entry on the register and certificates) is amended as follows.
- (2) In subsection (1) after “section 54(1)” insert “ (a) ”.
- (3) In subsection (2) after “section 55(1)” insert “ or (1A)(a) ”.

Commencement Information

I214 Sch. 4 para. 19 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I215 Sch. 4 para. 19 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 20 After section 56 insert—

“56A Later years childminder agencies: registers and certificates

- (1) If an application under section 54(1)(b) is granted, the later years childminder agency must—
- (a) register the applicant in the register maintained by the agency as a later years childminder, and
 - (b) give the applicant a certificate of registration stating that he or she is so registered.
- (2) If an application under section 55(1A)(b) is granted, the later years childminder agency must—
- (a) register the applicant in the register maintained by the agency as a later years provider other than a childminder, in respect of the premises in question, and
 - (b) give the applicant a certificate of registration stating that he or she is so registered.
- (3) A certificate of registration given to the applicant in pursuance of subsection (1) or (2) must contain prescribed information about prescribed matters.
- (4) If there is a change of circumstances which requires the amendment of a certificate of registration, the later years childminder agency must give the registered later years provider an amended certificate.”

Commencement Information

I216 Sch. 4 para. 20 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I217 Sch. 4 para. 20 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 21 In section 57 (special procedure for registered early years providers), in the title for “registered early years providers” substitute “ providers registered in the early years register ”.

Status: Point in time view as at 09/12/2021.

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Commencement Information

I218 Sch. 4 para. 21 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I219 Sch. 4 para. 21 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

22 After section 57 insert—

“57A Special procedure for providers registered with early years childminder agencies

- (1) Subsection (2) applies where—
 - (a) a person is registered with an early years childminder agency as an early years childminder, and
 - (b) that agency is also a later years childminder agency.
- (2) If the person gives notice to the agency that he or she proposes to provide later years childminding in respect of which he or she is required to be registered under this Chapter, the agency must—
 - (a) register the person in the register maintained by the agency as a later years childminder, and
 - (b) give the person a certificate of registration stating that he or she is so registered.
- (3) Subsection (4) applies where—
 - (a) a person is registered with an early years childminder agency in respect of particular premises as an early years provider other than a childminder, and
 - (b) that agency is also a later years childminder agency.
- (4) If the person gives notice to the agency that he or she proposes to provide later years provision in respect of which he or she is required to be registered under this Chapter on the same premises, the agency must—
 - (a) register the person in the register maintained by the agency as a later years provider other than a childminder, in respect of the premises, and
 - (b) give the person a certificate of registration stating that he or she is so registered.
- (5) Subsections (3) and (4) of section 56A apply in relation to a certificate of registration given in pursuance of subsection (2) or (4) of this section as they apply in relation to a certificate of registration given in pursuance of subsection (1) or (2) of that section.”

Commencement Information

I220 Sch. 4 para. 22 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I221 Sch. 4 para. 22 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

23 In section 58 (conditions on registration), in subsections (1) and (5) for “under this Chapter” substitute “ in Part A of the general childcare register ”.

Status: Point in time view as at 09/12/2021.

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Commencement Information

I222 Sch. 4 para. 23 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I223 Sch. 4 para. 23 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 24 (1) Section 59 (regulations governing activities) is amended as follows.
- (2) In subsection (4)—
- (a) after “Chief Inspector” insert “ or later years childminder agencies ”, and
 - (b) omit “his”.
- (3) In subsection (5)—
- (a) after “Chief Inspector” insert “ or later years childminder agencies ”, and
 - (b) omit “his”.
- (4) In subsection (6) after paragraph (a) (and before the “or” which follows it) insert—
- “(aa) by later years childminder agencies in the exercise of functions under this Part.”.

Commencement Information

I224 Sch. 4 para. 24 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I225 Sch. 4 para. 24 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 25 In section 60 (inspections), in subsection (1) for “under this Chapter” substitute “ in Part A of the general childcare register ”.

Commencement Information

I226 Sch. 4 para. 25 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I227 Sch. 4 para. 25 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 26 After Chapter 3 (regulation of later years provision for children under 8) insert—

“CHAPTER 3A

REGULATION OF LATER YEARS CHILDMINDER AGENCIES

Process of registration

Applications for registration

61A(1) A person may make an application to the Chief Inspector for registration as a later years childminder agency.

- (2) An application under subsection (1) must—
- (a) give any prescribed information about prescribed matters,
 - (b) give any other information which the Chief Inspector reasonably requires the applicant to give, and
 - (c) be accompanied by any prescribed fee.

Status: Point in time view as at 09/12/2021.

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- (3) The Chief Inspector must grant an application under subsection (1) if—
 - (a) the applicant is not disqualified from registration by regulations under section 76A, and
 - (b) it appears to the Chief Inspector that any requirements prescribed for the purposes of this subsection (“the prescribed requirements for registration”) are satisfied and are likely to continue to be satisfied.
- (4) The Chief Inspector must refuse any application under subsection (1) which subsection (3) does not require the Chief Inspector to grant.
- (5) The prescribed requirements for registration may include requirements relating to—
 - (a) the applicant;
 - (b) any persons employed by the applicant;
 - (c) management and control of the applicant (where the applicant is not an individual);
 - (d) the provision to the Chief Inspector of information about later years providers registered with the applicant;
 - (e) the applicant's arrangements for registering later years providers;
 - (f) the applicant's arrangements in relation to training and monitoring later years providers, and providing such persons with information, advice and assistance;
 - (g) the applicant's arrangements for ensuring that later years provision is of a sufficient standard.

Entry on the register and certificates

- 61B (1) If an application under section 61A is granted, the Chief Inspector must—
- (a) register the applicant in Part A of the general childcare register as a later years childminder agency, and
 - (b) give the applicant a certificate of registration stating that the applicant is so registered.
- (2) A certificate of registration given to the applicant in pursuance of subsection (1) must contain prescribed information about prescribed matters.
 - (3) If there is a change of circumstances which requires the amendment of a certificate of registration, the Chief Inspector must give the later years childminder agency an amended certificate.
 - (4) If the Chief Inspector is satisfied that a certificate of registration has been lost or destroyed, the Chief Inspector must give the later years childminder agency a copy, on payment by the agency of any prescribed fee.

Special procedure for registered early years childminder agencies

- 61C (1) If an early years childminder agency gives notice to the Chief Inspector of a wish to be a later years childminder agency the Chief Inspector must—
- (a) register the early years childminder agency in Part A of the general childcare register as a later years childminder agency, and
 - (b) give the agency a certificate of registration stating that it is so registered.

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- (2) Subsections (2) to (4) of section 61B apply in relation to a certificate of registration given in pursuance of subsection (1) of this section as they apply in relation to a certificate of registration given in pursuance of subsection (1) of that section.

Conditions on registration

- 61D(1) The Chief Inspector may impose such conditions as the Chief Inspector thinks fit on the registration of a later years childminder agency under this Chapter.
- (2) The power conferred by subsection (1) may be exercised at the time when the Chief Inspector registers the person in pursuance of section 61B or 61C or at any subsequent time.
- (3) The Chief Inspector may at any time vary or remove any condition imposed under subsection (1).
- (4) A later years childminder agency commits an offence if, without reasonable excuse, the agency fails to comply with any condition imposed under subsection (1).
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Inspections

Inspections of later years childminder agencies

- 61E (1) The Chief Inspector—
- (a) must inspect a later years childminder agency at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
 - (b) may inspect a later years childminder agency at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (2) For the purposes of an inspection under this section, the Chief Inspector may inspect later years provision provided by later years providers who are registered with the later years childminder agency for the purposes of Chapter 3.
- (3) The Chief Inspector may charge a prescribed fee for conducting an inspection of a later years childminder agency where—
- (a) the inspection is conducted at the request of the agency, and
 - (b) the Chief Inspector is required by the Secretary of State under subsection (1)(a) to conduct that inspection.
- (4) Regulations may make provision requiring a later years childminder agency to notify prescribed persons of the fact that it is to be inspected under this section.

Status: Point in time view as at 09/12/2021.

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Reports of inspections

61F (1) After conducting an inspection under section 61E, the Chief Inspector must make a report in writing on—

- (a) the quality and standards of the services offered by the later years childminder agency to later years providers registered with it,
- (b) the quality of leadership and management in the later years childminder agency, and
- (c) the effectiveness of the arrangements of the later years childminder agency for assuring itself of the quality of the care and education provided by the later years providers registered with it.

(2) The Chief Inspector—

- (a) may send a copy of the report to the Secretary of State and must do so without delay if the Secretary of State requests a copy,
- (b) must ensure that a copy of the report is sent without delay to the later years childminder agency,
- (c) must ensure that copies of the report, or such parts of it as the Chief Inspector considers appropriate, are sent to such other persons as may be prescribed, and
- (d) may arrange for the report (or parts of it) to be further published in any manner the Chief Inspector considers appropriate.

(3) Regulations may make provision—

- (a) requiring the later years childminder agency to make a copy of any report sent to it under subsection (2)(b) available for inspection by prescribed persons;
- (b) requiring the agency, except in prescribed cases, to provide a copy of the report to prescribed persons;
- (c) authorising the agency in prescribed cases to charge a fee for providing a copy of the report.

False representations

False representations

61G(1) A person who without reasonable excuse falsely represents that the person is a later years childminder agency commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

Commencement Information

I228 Sch. 4 para. 26 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I229 Sch. 4 para. 26 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

Status: Point in time view as at 09/12/2021.

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PART 4

VOLUNTARY REGISTRATION WITH CHILDMINDER AGENCY

27 The Childcare Act 2006 is amended as follows.

Commencement Information

I230 Sch. 4 para. 27 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I231 Sch. 4 para. 27 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

28 In section 65 (special procedure for persons already registered), in the title, at the end insert “ in a childcare register ”.

Commencement Information

I232 Sch. 4 para. 28 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I233 Sch. 4 para. 28 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

29 After section 65 insert—

“Voluntary registration of persons registered with childminder agencies

65A Procedure for persons already registered with a childminder agency

- (1) A person who is registered as an early years childminder with an early years childminder agency or as a later years childminder with a later years childminder agency may give notice to the agency that he or she wishes to be registered with the agency in respect of the provision in England of—
 - (a) later years childminding for a child who has attained the age of eight;
 - (b) early years childminding or later years childminding for a child who has not attained that age but in respect of which the person is not required to be registered under Chapter 2 or 3.
- (2) If a person gives notice to an agency under subsection (1), the agency must—
 - (a) register the person in the register maintained by the agency as a childminder registered under this Chapter, and
 - (b) give the person a certificate of registration stating that he or she is so registered.
- (3) A person who is registered as an early years provider (other than a childminder) with an early years childminder agency or as a later years provider (other than a childminder) with a later years childminder agency in respect of particular premises may give notice to the agency that he or she wishes to be registered with the agency in respect of the provision on the same premises of—
 - (a) later years provision (other than later years childminding) for a child who has attained the age of eight;
 - (b) early years provision or later years provision (other than early years or later years childminding) for a child who has not attained that age but in respect of which the person is not required to be registered under Chapter 2 or 3.

Status: Point in time view as at 09/12/2021.

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- (4) If a person gives notice to an agency under subsection (3), the agency must—
- (a) register the person in the register maintained by the agency as a provider of childcare (other than a childminder) registered under this Chapter, in respect of the premises, and
 - (b) give the person a certificate of registration stating that he or she is so registered.
- (5) A certificate of registration given to the applicant in pursuance of subsection (2) or (4) must contain prescribed information about prescribed matters.
- (6) If there is a change of circumstances which requires the amendment of a certificate of registration, the agency must give the registered person an amended certificate.”

Commencement Information

I234 Sch. 4 para. 29 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I235 Sch. 4 para. 29 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 30 In section 66 (conditions on registration), in subsections (1) and (5) for “under this Chapter” substitute “ in Part B of the general childcare register ”.

Commencement Information

I236 Sch. 4 para. 30 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I237 Sch. 4 para. 30 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 31 (1) Section 67 (regulations governing activities) is amended as follows.
- (2) In subsection (4)—
- (a) after “Chief Inspector” insert “ , early years childminder agencies or later years childminder agencies ”, and
 - (b) omit “his”.
- (3) In subsection (5)—
- (a) after “Chief Inspector” insert “ , early years childminder agencies or later years childminder agencies ”, and
 - (b) omit “his”.
- (4) In subsection (6) after paragraph (a) (and before the “or” which follows it) insert—
- “(aa) by early years childminder agencies or later years childminder agencies in the exercise of functions under this Part.”.

Commencement Information

I238 Sch. 4 para. 31 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I239 Sch. 4 para. 31 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

Status: Point in time view as at 09/12/2021.

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PART 5

PROVISIONS APPLYING IN RELATION TO ALL CHILDMINDER AGENCIES

32 The Childcare Act 2006 is amended as follows.

Commencement Information

I240 Sch. 4 para. 32 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I241 Sch. 4 para. 32 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 33 (1) Section 68 (cancellation of registration) is amended as follows.
- (2) In subsection (1) after “or 4” insert “ in the early years register or the general childcare register ”.
- (3) In subsection (2)—
- (a) after “or 4” insert “ in the early years register or the general childcare register ”, and
- (b) in paragraph (d) after “Chapter 2” insert “ in the early years register ”.
- (4) In subsection (3) for “as an early years childminder under Chapter 2” substitute “ under Chapter 2 in the early years register as an early years childminder ”.
- (5) In subsection (4) for “as a later years childminder under Chapter 3” substitute “ under Chapter 3 in Part A of the general childcare register as a later years childminder ”.
- (6) In subsection (5) for “as a childminder under Chapter 4” substitute “ under Chapter 4 in Part B of the general childcare register as a childminder ”.
- (7) In subsection (6) after “or 4” insert “ in the early years register or the general childcare register ”.
- (8) In the title, at the end insert “ in a childcare register: early years and later years providers ”.

Commencement Information

I242 Sch. 4 para. 33 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I243 Sch. 4 para. 33 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 34 (1) Section 69 (suspension of registration) is amended as follows.
- (2) In subsection (1) after “or 4” insert “ in the early years register or the general childcare register ”.
- (3) In subsection (3) for “as an early years childminder under Chapter 2” substitute “ under Chapter 2 in the early years register as an early years childminder ”.
- (4) In subsection (4) for “as a later years childminder under Chapter 3” substitute “ under Chapter 3 in Part A of the general childcare register as a later years childminder ”.
- (5) In subsection (6) for “as an early years provider (other than an early years childminder) under Chapter 2” substitute “ under Chapter 2 in the early years register as an early years provider (other than an early years childminder) ”.

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- (6) In subsection (7) for “as a later years provider (other than a later years childminder) under Chapter 3” substitute “ under Chapter 3 in Part A of the general childcare register as a later years provider (other than a later years childminder) ”.
- (7) In the title, at the end insert “ in a childcare register: early years and later years providers ”.

Commencement Information

I244 Sch. 4 para. 34 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I245 Sch. 4 para. 34 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

35 After section 69 insert—

“69A Cancellation, termination and suspension of registration with a childminder agency

- (1) Regulations may make provision about the cancellation, termination and suspension of the registration of an early years provider or a later years provider with an early years childminder agency or a later years childminder agency for the purposes of Chapter 2, 3 or 4, in particular—
- about the termination by an early years provider or a later years provider of his or her registration;
 - for the creation of offences relating to things done while a registration is suspended;
 - about the resolution of disputes between an early years provider or a later years provider and an early years childminder agency or a later years childminder agency.
- (2) Regulations by virtue of subsection (1) which make provision about the suspension of the registration of an early years provider or a later years provider with a childminder agency must include provision conferring on the registered provider a right of appeal to the Tribunal against suspension.
- (3) Regulations made by virtue of subsection (1)(b) may only create offences which are—
- triable only summarily, and
 - punishable only with a fine not exceeding the level specified in the regulations, which may not exceed level 5 on the standard scale.”

Commencement Information

I246 Sch. 4 para. 35 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I247 Sch. 4 para. 35 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

36 After section 69A (as inserted by paragraph 35) insert—

“69B Cancellation of registration: childminder agencies

- (1) The Chief Inspector must cancel the registration of a person registered under Chapter 2A or 3A as an early years childminder agency or a later years

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childminder agency if it appears to the Chief Inspector that the person has become disqualified from registration by regulations under section 76A.

- (2) The Chief Inspector may cancel the registration of a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency if it appears to the Chief Inspector—
 - (a) that the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased, or will cease, to be satisfied,
 - (b) that the person has failed to comply with a condition imposed on the registration under that Chapter,
 - (c) that the person has failed to comply with a requirement imposed by regulations under that Chapter,
 - (d) that the person has failed to comply with a requirement imposed by this Chapter, or by regulations under this Chapter, or
 - (e) that the person has failed to pay a prescribed fee.
- (3) Where a requirement to make any changes or additions to any services has been imposed on a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency, the person's registration may not be cancelled on the ground of any defect or insufficiency in the services, if—
 - (a) the time set for complying with the requirements has not expired, and
 - (b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.
- (4) Regulations may make provision about the effect of the cancellation under this section of the registration under Chapter 2A or 3A of an early years childminder agency or a later years childminder agency on an early years provider or a later years provider registered with the agency for the purposes of Chapter 2, 3 or 4.

69C Suspension of registration: childminder agencies

- (1) Regulations may provide for the registration of a person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency to be suspended for a prescribed period in prescribed circumstances.
- (2) Regulations under subsection (1) must include provision conferring on the registered person a right of appeal to the Tribunal against suspension.
- (3) Regulations under subsection (1) may make provision about the effect of the suspension of the registration of an early years childminder agency or a later years childminder agency on an early years provider or a later years provider registered with the agency for the purposes of Chapter 2, 3 or 4.
- (4) A person registered under Chapter 2A as an early years childminder agency may not, at any time when the person's registration under that Chapter is suspended in accordance with regulations under this section—
 - (a) exercise any functions of an early years childminder agency, or
 - (b) represent that the person may exercise such functions.

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- (5) A person registered under Chapter 3A as a later years childminder agency may not, at any time when the person's registration under that Chapter is suspended in accordance with regulations under this section—
 - (a) exercise any functions of a later years childminder agency, or
 - (b) represent that the person may exercise such functions.
- (6) A person commits an offence if, without reasonable excuse, the person contravenes subsection (4) or (5).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

Commencement Information

I248 Sch. 4 para. 36 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I249 Sch. 4 para. 36 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 37
- (1) Section 70 (voluntary removal from register) is amended as follows.
 - (2) In subsection (1) for “any of Chapters 2 to 4” substitute “ Chapter 2, 3 or 4 ”.
 - (3) In the title for “register” substitute “ a childcare register: early years and later years providers ”.

Commencement Information

I250 Sch. 4 para. 37 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I251 Sch. 4 para. 37 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 38 After section 70 insert—

“70A Voluntary removal from a childcare register: childminder agencies

- (1) A person registered under Chapter 2A or 3A as an early years childminder agency or a later years childminder agency may give notice to the Chief Inspector of a wish to be removed from the early years register or (as the case may be) from Part A of the general childcare register.
- (2) If a person gives notice under subsection (1) the Chief Inspector must remove the person from the early years register or (as the case may be) from Part A of the general childcare register.
- (3) The Chief Inspector must not act under subsection (2) if—
 - (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(2)) of the Chief Inspector's intention to cancel the person's registration, and
 - (b) the Chief Inspector has not decided that he or she no longer intends to take that step.
- (4) The Chief Inspector must not act under subsection (2) if—
 - (a) the Chief Inspector has sent the person a notice (in pursuance of section 73(7)) of the Chief Inspector's decision to cancel the person's registration, and

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- (b) the time within which an appeal under section 74 may be brought has not expired or, if such an appeal has been brought, it has not been determined.”

Commencement Information

I252 Sch. 4 para. 38 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I253 Sch. 4 para. 38 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 39 In section 71 (termination of voluntary registration on expiry of prescribed period), in the title after “registration” insert “ in Part B of the general childcare register ”.

Commencement Information

I254 Sch. 4 para. 39 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I255 Sch. 4 para. 39 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 40 In section 72 (protection of children in an emergency), in subsection (1) after “or 4” insert “ in the early years register or the general childcare register ”.

Commencement Information

I256 Sch. 4 para. 40 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I257 Sch. 4 para. 40 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 41 (1) Section 73 (procedure for taking certain steps) is amended as follows.
- (2) In subsection (3)(b) for “his” substitute “the person's”.
- (3) In subsection (4) for “he” substitute “ the applicant or registered person ”.
- (4) In subsection (5)—
- (a) for “he” substitute “ the recipient ”, and
- (b) for “him” substitute “ the recipient ”.
- (5) In subsection (6) for “his” substitute “the recipient's”.
- (6) In subsection (7) for “he” (in the second place it occurs) substitute “ the recipient ”.
- (7) In subsection (9) for “he” substitute “ the person ”.
- (8) In subsection (10) for “his” substitute “ the ”.

Commencement Information

I258 Sch. 4 para. 41 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I259 Sch. 4 para. 41 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 42 (1) Section 74 (appeals) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) for “his” substitute “ the ”,
- (b) in paragraph (b) for “his” substitute “the person's”,

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- (c) in paragraph (c) for “his” substitute “the person's”, and
- (d) in paragraph (e) for “his” substitute “the person's”.

(3) In subsection (5)(b) for “his” substitute “ the ”.

(4) In the title, at the end insert “ relating to registration in a childcare register ”.

Commencement Information

I260 Sch. 4 para. 42 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I261 Sch. 4 para. 42 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

43 In the italic heading before section 75 (disqualification from registration), at the end insert “ : early years and later years providers ”.

Commencement Information

I262 Sch. 4 para. 43 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I263 Sch. 4 para. 43 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

44 In the title of section 75, at the end insert “ : early years and later years providers ”.

Commencement Information

I264 Sch. 4 para. 44 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I265 Sch. 4 para. 44 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

45 (1) Section 76 (consequences of disqualification) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) after “34(1)” insert “ or (1A) ”, and
- (b) in paragraph (c) after “53(1)” insert “ or (1A) ”.

(3) After subsection (3) insert—

“(3A) An early years childminder agency must not register for the purposes of Chapter 2 a person who is disqualified from registration by regulations under section 75.

(3B) A later years childminder agency must not register for the purposes of Chapter 3 a person who is disqualified from registration by regulations under section 75.

(3C) An early years childminder agency or a later years childminder agency must not register for the purposes of Chapter 4 a person who is disqualified from registration by regulations under section 75.”

(4) In subsection (4), for “or (3)” substitute “ , (3), (3A), (3B) or (3C) ”.

(5) In subsection (6)—

- (a) after “A person” insert “ (“A”) ”, and
- (b) for “he” (in each place it occurs) substitute “ A ”.

(6) After subsection (6) insert—

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“(6A) A person (“A”) who contravenes subsection (3A), (3B) or (3C) is not guilty of an offence under subsection (4) if A proves that A did not know, and had no reasonable grounds for believing, that the person registered by A was disqualified from registration.”

(7) In the title, at the end insert “ : early years and later years providers ”.

Commencement Information

I266 Sch. 4 para. 45 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I267 Sch. 4 para. 45 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

46 After section 76 insert—

“Disqualification from registration: childminder agencies

76A Disqualification from registration: childminder agencies

- (1) In this section, “registration” means registration under Chapter 2A or 3A.
- (2) Regulations may provide for a person to be disqualified from registration.
- (3) Regulations under subsection (2) may provide for a person not to be disqualified from registration (and in particular may provide for a person not to be disqualified from registration for the purposes of section 76B) by reason of any fact which would otherwise cause the person to be disqualified if—
 - (a) the person has disclosed the fact to the Chief Inspector, and
 - (b) the Chief Inspector has consented in writing to the person's not being disqualified from registration and has not withdrawn the consent.

76B Consequences of disqualification: childminder agencies

- (1) A person who is disqualified from registration by regulations under section 76A must not—
 - (a) exercise any functions of an early years childminder agency or a later years childminder agency,
 - (b) represent that the person can exercise such functions,
 - (c) be a director, manager or other officer of, or partner in, an early years childminder agency or a later years childminder agency, be a member of the governing body of such an agency, or otherwise be directly concerned in the management of such an agency, or
 - (d) work for such an agency in any capacity which involves entering premises on which early years provision or later years provision is being provided.
- (2) No early years childminder agency or later years childminder agency may employ a person who is disqualified from registration by regulations under section 76A in any capacity which involves—
 - (a) being directly concerned in the management of an early years childminder agency or a later years childminder agency, or

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- (b) entering premises on which early years provision or later years provision is being provided.
- (3) A person who contravenes subsection (1) or (2) commits an offence.
- (4) A person (“P”) who contravenes subsection (2) is not guilty of an offence under subsection (3) if P proves that P did not know, and had no reasonable grounds for believing, that the person whom P was employing was disqualified from registration.
- (5) A person guilty of an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 5 on the standard scale, or to both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.”

Commencement Information

I268 Sch. 4 para. 46 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I269 Sch. 4 para. 46 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 47 (1) Section 77 (powers of entry) is amended as follows.
- (2) In subsection (1)—
- (a) after “34(1)” insert “ or (1A) ”, and
- (b) after “53(1)” insert “ or (1A) ”.
- (3) In subsection (2)(a) for “or 60” substitute “, 51D(2), 60 or 61E(2) ”.
- (4) For the title substitute “ Chief Inspector's powers of entry: early years provision and later years provision ”.

Commencement Information

I270 Sch. 4 para. 47 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I271 Sch. 4 para. 47 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 48 For the title of section 78 substitute “ Powers of entry under section 77: requirement for consent ”.

Commencement Information

I272 Sch. 4 para. 48 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I273 Sch. 4 para. 48 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 49 After section 78 insert—

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“78A Chief Inspector's powers of entry: childminder agencies

- (1) The Chief Inspector may at any reasonable time enter any premises in England if the Chief Inspector has reasonable cause to believe that a person on the premises is falsely representing—
 - (a) that the person is an early years childminder agency, or
 - (b) that the person is a later years childminder agency.
- (2) The Chief Inspector may at any reasonable time enter any premises in England which is registered in—
 - (a) the early years register as premises of an early years childminder agency, or
 - (b) Part A of the general childcare register as premises of a later years childminder agency,
 for any of the purposes in subsection (3).
- (3) Those purposes are—
 - (a) conducting an inspection under section 51D(1) or 61E(1);
 - (b) determining whether any conditions or requirements imposed by or under this Part are being complied with.
- (4) An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to the functions under subsection (1) or (2)—
 - (a) may be given for a particular occasion or period;
 - (b) may be given subject to conditions.
- (5) A person entering premises under this section may (subject to any conditions imposed under subsection (4)(b))—
 - (a) inspect the premises;
 - (b) inspect, and take copies of—
 - (i) any records kept concerning early years providers or later years providers, and
 - (ii) any other documents containing information relating to such providers;
 - (c) seize and remove any document or other material or thing found there which the person has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
 - (d) take measurements and photographs or make recordings;
 - (e) interview in private any person present on the premises who works there.
- (6) A person entering premises under this section may (subject to any conditions imposed under subsection (4)(b)) require any person to afford such facilities and assistance with respect to matters within the person's control as are necessary to enable the powers under this section to be exercised.
- (7) Section 58 of the Education Act 2005 (inspection of computer records for the purposes of Part 1 of that Act) applies for the purposes of this section as it applies for the purposes of Part 1 of that Act.

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- (8) It is an offence intentionally to obstruct a person exercising any power under this section.
- (9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section, “documents” and “records” each include information recorded in any form.

78B Powers of entry under section 78A: requirement for consent

- (1) This section applies where a person (“the authorised person”) proposes to enter domestic premises in pursuance of a power of entry conferred by section 78A(2).
- (2) If the authorised person has reasonable cause to believe that the premises are the home of a person who—
 - (a) is not employed by the early years childminder agency or (as the case may be) the later years childminder agency, or
 - (b) is not a director, manager or other officer of, or partner in, the agency, a member of its governing body or otherwise directly concerned in the management of the agency,the authorised person may not enter the premises without the consent of an adult who is an occupier of the premises and who falls within paragraph (a) or (b).”

Commencement Information

I274 Sch. 4 para. 49 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I275 Sch. 4 para. 49 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 50 In section 79 (power of constable to assist in exercise of powers of entry), in subsection (2), in paragraph (a) after “77” insert “ or 78A ”.

Commencement Information

I276 Sch. 4 para. 50 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I277 Sch. 4 para. 50 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 51 (1) Section 82 (supply of information to the Chief Inspector), is amended as follows.
- (2) The existing provision becomes subsection (1).
 - (3) In that subsection, after “later years provider” insert “ , or (as the case may be) as an early years childminder agency or later years childminder agency, ”.
 - (4) After subsection (1) insert—

“(2) The Chief Inspector's power under subsection (1) includes a power to require an early years childminder agency or a later years childminder agency to provide the Chief Inspector with information about an early years provider or a later years provider registered with the agency for the purposes of Chapter 2, 3 or 4.”

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with the early years childminder agency or later years childminder agency for the purposes of Chapter 2 or 3 provides (or has provided) early years provision or later years provision in respect of which he or she is (or was) registered.”

Commencement Information

I282 Sch. 4 para. 53 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I283 Sch. 4 para. 53 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

54 In the title of section 84 (disclosure of information for certain purposes), at the end insert “ : the Chief Inspector ”.

Commencement Information

I284 Sch. 4 para. 54 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I285 Sch. 4 para. 54 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

55 After section 84 insert—

“84A Disclosure of information for certain purposes: childminder agencies

- (1) An early years childminder agency or a later years childminder agency may arrange for prescribed information held by the agency in relation to persons registered with the agency under this Part to be made available for the purpose of—
 - (a) assisting parents or prospective parents in choosing an early years provider or later years provider, or
 - (b) protecting children from harm or neglect.
- (2) The information may be made available in such manner and to such persons as the agency considers appropriate.
- (3) Regulations may require an early years childminder agency or a later years childminder agency to provide prescribed information held by the agency in relation to persons registered with the agency under this Part to prescribed persons for either of the purposes mentioned in subsection (1).”

Commencement Information

I286 Sch. 4 para. 55 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I287 Sch. 4 para. 55 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

56 In section 85 (offence of making false or misleading statement), in subsection (1) for “he” substitute “ the person ”.

Commencement Information

I288 Sch. 4 para. 56 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I289 Sch. 4 para. 56 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

57 (1) Section 87 (offences by bodies corporate) is amended as follows.

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(2) In subsection (1) for “This section” substitute “ Subsection (2) ”.

(3) After subsection (2) insert—

“(3) Subsection (4) applies where any offence under this Part is committed by a partnership.

(4) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner, that partner (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.”

(4) In the title, at the end insert “ and partnerships ”.

Commencement Information

I290 Sch. 4 para. 57 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I291 Sch. 4 para. 57 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

58 In section 89 (fees), in subsection (1) after “to 4” insert “ in the early years register or the general childcare register ”.

Commencement Information

I292 Sch. 4 para. 58 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I293 Sch. 4 para. 58 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

59 (1) Section 90 (cases where consent to disclosure is withheld) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) for “Chapter 2, 3 or 4” substitute “ any of Chapters 2 to 4 ”, and

(b) in paragraph (b) after “68(2)(a)” insert “ or 69B(2)(a) ”.

(3) In subsection (2)(b) omit “his” in both places it occurs.

Commencement Information

I294 Sch. 4 para. 59 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I295 Sch. 4 para. 59 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

60 (1) Section 93 (notices) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (a) insert—

“(aa) section 57A(2) and (4);

(ab) section 61C(1);” and

(b) after paragraph (b) insert—

“(ba) section 65A(1) and (3);”.

(3) In subsection (2)(a) for “him” substitute “ the person ”.

(4) In subsection (4)—

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- (a) in paragraph (a) for “his” substitute “ a ”, and
- (b) in paragraph (b) omit “by him”.

Commencement Information

I296 Sch. 4 para. 60 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I297 Sch. 4 para. 60 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 61 In section 94 (power to amend Part 3: applications in respect of multiple premises), in paragraph (a)—
- (a) after “36(1)” insert “ or (1A) ”, and
 - (b) after “55(1)” insert “ or (1A) ”.

Commencement Information

I298 Sch. 4 para. 61 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I299 Sch. 4 para. 61 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 62 (1) Section 98 (interpretation of Part 3) is amended as follows.
- (2) In subsection (1)—
- (a) after the definition of “childcare” insert—
 - ““childminder agency” means—
 - (a) an early years childminder agency;
 - (b) a later years childminder agency;”
 - (b) after the definition of “domestic premises” insert—
 - ““early years childminder agency” means a person registered in the early years register as an early years childminder agency;”, and
 - (c) before the definition of “later years provision” insert—
 - ““later years childminder agency” means a person registered in Part A of the general childcare register as a later years childminder agency;”.
- (3) After that subsection insert—
- “(1A) A person is registered for the purposes of this Part if that person is registered—
 - (a) in the early years register,
 - (b) in the general childcare register, or
 - (c) with an early years childminder agency or a later years childminder agency.”

Commencement Information

I300 Sch. 4 para. 62 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I301 Sch. 4 para. 62 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

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PART 6

OTHER AMENDMENTS

- 63 In section 99 of the Childcare Act 2006 (provision of information about young children: England), in subsection (1) after paragraph (a) (and before the “and” which follows it) insert—
- “(aa) a person registered as an early years childminder agency under Chapter 2A of Part 3.”.

Commencement Information

I302 Sch. 4 para. 63 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I303 Sch. 4 para. 63 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

- 64 In the Employment Agencies Act 1973, in section 13(7) (exemptions) after paragraph (c) insert—
- “(ca) an early years childminder agency or a later years childminder agency (as defined in section 98 of the Childcare Act 2006);”.

Commencement Information

I304 Sch. 4 para. 64 in force at 1.4.2014 for specified purposes by S.I. 2014/889, art. 3(m)

I305 Sch. 4 para. 64 in force at 1.9.2014 in so far as not already in force by S.I. 2014/889, art. 7(e)

SCHEDULE 5

Section 115

CHILDREN'S COMMISSIONER: MINOR AND CONSEQUENTIAL AMENDMENTS

Inquiries

- 1 (1) Section 3 of the Children Act 2004 (inquiries initiated by Commissioner) is amended as follows.
- (2) Omit subsection (3) (requirement to consult the Secretary of State before holding an inquiry).
- (3) In subsection (7) for “under any enactment” substitute “of a public nature”.
- 2 (1) Section 4 of the Children Act 2004 (inquiries held on the direction of the Secretary of State) is repealed.
- (2) In consequence of sub-paragraph (1), omit the following provisions of the Children Act 2004—
- (a) section 5(6) and (7) (inquiries in Wales),
- (b) section 6(7) to (9) (inquiries in Scotland), and
- (c) section 7(7) to (9) (inquiries in Northern Ireland).

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Functions of Commissioner: children in Wales, Scotland and Northern Ireland

- 3 (1) Section 5 of the Children Act 2004 (functions of Commissioner in Wales) is amended as follows.
- (2) In subsection (1), for “promoting awareness of the views and interests of children in Wales” substitute “ promoting and protecting the rights of children in Wales ”.
- (3) After subsection (1) insert—
- “(1A) The function under subsection (1) includes promoting awareness of the views and interests of children in Wales.”
- (4) For subsection (2) substitute—
- “(2) Subsections (3) to (5) of section 2 and sections 2A to 2C, 2E and 2F apply in relation to the Children's Commissioner's function under subsection (1) as in relation to the Commissioner's primary function.
- (2A) For the purposes of subsection (2)—
- (a) section 2(3)(i) has effect as if for “in England” there were substituted “ in Wales, except in so far as relating to any matter falling within the remit of the Children's Commissioner for Wales under section 72B, 73 or 74 of the Care Standards Act 2000, ”,
- (b) sections 2(4) and 2B(3) have effect as if for “children who are within section 8A (children living away from home or receiving social care) and other groups of children” there were substituted “ groups of children ”,
- (c) section 2E(1) has effect as if “and the function under section 2D” were omitted, and
- (d) section 2F(1) has effect as if “or the function under section 2D” were omitted.”
- 4 (1) Section 6 of the Children Act 2004 (functions of Commissioner in Scotland) is amended as follows.
- (2) In subsection (1), for “promoting awareness of the views and interests of children in Scotland in relation to reserved matters” substitute “ promoting and protecting the rights of children in Scotland where those rights are or may be affected by reserved matters ”.
- (3) After subsection (1) insert—
- “(1A) The function under subsection (1) includes promoting awareness of the views and interests of children in Scotland.”
- (4) For subsection (2) substitute—
- “(2) Subsections (3) to (5) of section 2 and sections 2A to 2C, 2E and 2F apply in relation to the Children's Commissioner's function under subsection (1) as in relation to the Commissioner's primary function.
- (2A) For the purposes of subsection (2)—
- (a) section 2(3)(i) has effect as if for “in England” there were substituted “ in Scotland, in relation to reserved matters, ”,
- (b) sections 2(4) and 2B(3) have effect as if for “children who are within section 8A (children living away from home or receiving social care)

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- and other groups of children” there were substituted “ groups of children ”,
- (c) section 2E(1) has effect as if “and the function under section 2D” were omitted, and
- (d) section 2F(1) has effect as if “or the function under section 2D” were omitted.”
- 5 (1) Section 7 of the Children Act 2004 (functions of Commissioner in Northern Ireland) is amended as follows.
- (2) In subsection (1), for “promoting awareness of the views and interests of children in Northern Ireland in relation to excepted matters” substitute “ promoting and protecting the rights of children in Northern Ireland where those rights are or may be affected by excepted matters ”.
- (3) After subsection (1) insert—
- “(1A) The function under subsection (1) includes promoting awareness of the views and interests of children in Northern Ireland.”
- (4) For subsection (2) substitute—
- “(2) Subsections (3) to (5) of section 2 and sections 2A to 2C, 2E and 2F apply in relation to the Children's Commissioner's function under subsection (1) as in relation to the Commissioner's primary function.
- (2A) For the purposes of subsection (2)—
- (a) section 2(3)(i) has effect as if for “in England” there were substituted “ in Northern Ireland, in relation to excepted matters, ”,
- (b) sections 2(4) and 2B(3) have effect as if for “children who are within section 8A (children living away from home or receiving social care) and other groups of children” there were substituted “ groups of children ”,
- (c) section 2E(1) has effect as if “and the function under section 2D” were omitted, and
- (d) section 2F(1) has effect as if “or the function under section 2D” were omitted.”

Young persons

- 6 (1) For section 9 of the Children Act 2004 (care leavers and young persons with learning disabilities) substitute—

“9 Commissioner's functions in relation to certain young people

- (1) This section applies for the purposes of this Part, other than sections 2A and 8A (and references in this Part to a child who is within section 8A).
- (2) For the purposes of the Children's Commissioner's functions in respect of children in England, a reference to a child includes, in addition to a person under the age of 18—
- (a) a person aged 18 or over for whom an EHC plan is maintained by a local authority,

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- (b) a person aged 18 or over and under 25 to whom a local authority in England has provided services under any of sections 23C to 24D of the Children Act 1989 at any time after reaching the age of 16, or
 - (c) a person aged 18 or over and under 25 who has been looked after by a local authority (in Wales, Scotland or Northern Ireland) at any time after reaching the age of 16.
- (3) For the purposes of the Children's Commissioner's functions in respect of children in Wales, Scotland and Northern Ireland, a reference to a child includes, in addition to a person under the age of 18, a person aged 18 or over and under 25—
 - (a) who has a learning disability,
 - (b) who has been looked after by a local authority (in Wales, Scotland or Northern Ireland) at any time after reaching the age of 16, or
 - (c) to whom a local authority in England has provided services under any of sections 23C to 24D of the Children Act 1989 at any time after reaching the age of 16.
- (4) For the purposes of this section—
 - “EHC plan” means a plan within section 37(2) of the Children and Families Act 2014 (education, health and care plans);
 - “learning disability” means a state of arrested or incomplete development of mind which induces significant impairment of intelligence and social functioning;
 - a person is “looked after by a local authority” if—
 - (a) for the purposes of the Children Act 1989, he or she is looked after by a local authority in Wales;
 - (b) for the purposes of the Children (Scotland) Act 1995, he or she is looked after by a local authority in Scotland;
 - (c) for the purposes of the Children (Northern Ireland) Order 1995, he or she is looked after by an authority in Northern Ireland.”
- (2) Until the coming into force of Part 3 of this Act, section 9 of the Children Act 2004 (as substituted by sub-paragraph (1)) has effect as if—
 - (a) in subsection (2) for paragraph (a) there were substituted—
 - “(a) a person aged 18 or over and under 25 in respect of whom an assessment under section 139A of the Learning and Skills Act 2000 (a learning difficulty assessment) has been conducted,” and
 - (b) in subsection (4) the definition of “EHC plan” were omitted.

Appointment and tenure of Children's Commissioner

- 7 In Schedule 1 to the Children Act 2004, in paragraph 3 (appointment and tenure of office)—
- (a) in sub-paragraph (2) for “, to such extent and in such manner as he thinks fit,” substitute “ take reasonable steps to ”,
 - (b) in sub-paragraph (4) for “five years” substitute “ six years ”, and
 - (c) in sub-paragraph (5) for “is eligible for reappointment once only” substitute “ is not eligible for reappointment ”.

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8 In Schedule 1 to the Children Act 2004, after paragraph 3 insert—

“Interim appointments

- 3A (1) Where there is a vacancy in the office of Children's Commissioner, the Secretary of State may appoint a person as interim Children's Commissioner.
- (2) Subject to the provisions of this paragraph, a person holds and vacates office as interim Children's Commissioner in accordance with the terms and conditions of the appointment as determined by the Secretary of State.
- (3) An appointment as interim Children's Commissioner is for a term ending—
- (a) with the appointment of a person as the Children's Commissioner under paragraph 3, or
 - (b) if sooner, at the end of the period of six months beginning with the date on which the appointment as interim Children's Commissioner was made.
- (4) A person who has held office as interim Children's Commissioner—
- (a) is eligible for reappointment, and
 - (b) is eligible for appointment as the Children's Commissioner.
- (5) An interim Children's Commissioner may at any time resign by notice in writing to the Secretary of State.
- (6) The Secretary of State may remove an interim Children's Commissioner from office if satisfied that the interim Commissioner has—
- (a) become unfit or unable properly to discharge his or her functions; or
 - (b) behaved in a way that is not compatible with continuing in office.”

Deputy Children's Commissioner

- 9 (1) In Schedule 1 to the Children Act 2004, in paragraph 5 (staff)—
- (a) in sub-paragraph (1) omit “, one of whom shall be appointed as deputy Children's Commissioner”,
 - (b) omit sub-paragraph (2), and
 - (c) in sub-paragraph (3) omit “Without prejudice to sub-paragraph (2),”.
- (2) In consequence of sub-paragraph (1), in section 36(6) of the Criminal Justice and Court Services Act 2000 (meaning of “regulated position”), in paragraph (fa) omit “and deputy Children's Commissioner”.

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SCHEDULE 6

Section 116

REPEAL OF REQUIREMENT TO APPOINT CHILDREN'S RIGHTS DIRECTOR: TRANSFER SCHEMES

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing for designated members of staff of the Office for Standards in Education, Children's Services and Skills (“the Office”) to become members of the Children's Commissioner's staff.
- (2) A staff transfer scheme may provide—
 - (a) for the terms and conditions of service of a member of staff of the Office to have effect (subject to any necessary modifications) as the terms and conditions of service as a member of the Children's Commissioner's staff;
 - (b) for the transfer to the Children's Commissioner of the rights, powers, duties and liabilities of the Office under or in connection with the contract of employment of the member of staff;
 - (c) for anything done (or having effect as if done) before that transfer by or in relation to the Office in respect of such a contract or the member of staff to be treated as having been done by or in relation to the Children's Commissioner.
- (3) A staff transfer scheme may provide for a period before a person became a member of the Children's Commissioner's staff to count as a period during which he or she was a member of the Commissioner's staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (4) A staff transfer scheme may provide for a person who would be treated (by an Act or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for a person who is a member of staff of the Office not to become a member of the Children's Commissioner's staff if the person gives notice objecting to the operation of the scheme in relation to him or her.

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer to the Children's Commissioner of designated property, rights or liabilities of the Office.
- (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the Office in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the Children's Commissioner;
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.

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The Chief Inspector

- 3 In the following provisions of this Schedule, a reference to the Office includes a reference to the Chief Inspector—
- (a) paragraph 1(2)(b) (to the extent that the Chief Inspector has rights, powers, duties or liabilities under or in connection with the contract of employment of a member of staff of the Office);
 - (b) paragraph 1(2)(c) (to the extent that anything has been done (or has effect as if done) by or in relation to the Chief Inspector in respect of such a contract or member of staff before a transfer);
 - (c) paragraph 2(1) (to the extent that the Chief Inspector has property, rights or liabilities);
 - (d) paragraph 2(2)(b) (to the extent that anything has been done by or in relation to the Chief Inspector in respect of any property, rights or liabilities transferred by a property transfer scheme).

Continuity

- 4 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the Office or the Chief Inspector before the transfer takes effect.

Supplementary provisions

- 5 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional and consequential provision.

Interpretation

- 6 In this Schedule—
- “the Chief Inspector” means Her Majesty's Chief Inspector of Education, Children's Services and Skills;
 - “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
 - “the Office” has the meaning given in paragraph 1(1).

SCHEDULE 7

Section 126

STATUTORY RIGHTS TO LEAVE AND PAY: FURTHER AMENDMENTS

Social Security Act 1989 (c. 24)

- 1 Schedule 5 to the Social Security Act 1989 (employment-related schemes for pensions or other benefits to comply with the principle of equal treatment for men and women) is amended as follows.

Commencement Information

I306 Sch. 7 para. 1 in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(a\)](#)

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- 2 (1) Paragraph 5A (schemes that contain unfair paternity leave provisions) is amended as follows.
- (2) In sub-paragraph (3) (how scheme affected), in the words following paragraph (b), for “, ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “ or statutory paternity pay ”.
- (3) In sub-paragraph (4) (definitions), in the definition of “period of paid paternity leave”—
- (a) in paragraph (a), after “(6), (7)” there is inserted “, (7A) or (7B) ”;
 - (b) in paragraph (a), the words “or (8)” are repealed;
 - (c) in paragraph (b), for “, ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “ or statutory paternity pay ”.
- (4) In sub-paragraph (7) (type of paid paternity leave: where adoption does not involve placement for adoption under the law of any part of the United Kingdom), for “section 171ZK” there is substituted “ section 171ZK(1) ”.
- (5) After sub-paragraph (7) there is inserted—
- “(7A) This sub-paragraph applies if—
 - (a) the member's absence from work is due to the placement or expected placement of a child under section 22C of the Children Act 1989, and
 - (b) in relation to that child, the member satisfies the conditions prescribed under section 171ZB(2)(a)(i) and (ii) of the Social Security Contributions and Benefits Act 1992, as modified by section 171ZB(8) of that Act (cases involving the placing of a child by a local authority in England with a local authority foster parent who has been approved as a prospective adopter).
 - (7B) This sub-paragraph applies if—
 - (a) the member's absence from work is due to the birth or expected birth of a child, and
 - (b) in relation to that child, the member satisfies the conditions prescribed under section 171ZB(2)(a)(i) and (ii) of the Social Security Contributions and Benefits Act 1992, as applied by virtue of section 171ZK(2) of that Act (cases involving applicants for parental orders under section 54 of the Human Fertilisation and Embryology Act 2008).”
- (6) Sub-paragraph (8) (absence from work in circumstances where certain conditions for payment of additional statutory paternity pay are satisfied) is repealed.

Commencement Information

I307 Sch. 7 para. 2(1)(4) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(b\)](#)

I308 Sch. 7 para. 2(2)(3)(b)(c)(6) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(a\)](#) (with [art. 16](#))

I309 Sch. 7 para. 2(3)(a) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(a\)](#)

I310 Sch. 7 para. 2(5) in force at 1.12.2014 for specified purposes by [S.I. 2014/1640](#), [art. 5\(2\)\(a\)](#)

I311 Sch. 7 para. 2(5) in force at 5.4.2015 for specified purposes by [S.I. 2014/1640](#), [art. 7\(a\)](#) (with [art. 16](#))

- 3 (1) Paragraph 5B (schemes that contain unfair adoption leave provisions) is amended as follows.

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(2) In sub-paragraph (4) (definitions), in the definition of “period of paid adoption leave”, in paragraph (a), for “or (6)” there is substituted “, (6), (7) or (8)”.

(3) After sub-paragraph (6) there is inserted—

“(7) This sub-paragraph applies if—

- (a) the member's absence from work is due to the placement or expected placement of a child under section 22C of the Children Act 1989, and
- (b) in relation to that child, the member satisfies the condition in section 171ZL(2)(a) of the Social Security Contributions and Benefits Act 1992, as modified by section 171ZL(9) of that Act (cases involving the placing of a child by a local authority in England with a local authority foster parent who has been approved as a prospective adopter).

(8) This sub-paragraph applies if—

- (a) the member's absence from work is due to the birth or expected birth of a child, and
- (b) in relation to that child, the member satisfies the condition in section 171ZL(2)(a) of the Social Security Contributions and Benefits Act 1992, as applied by virtue of section 171ZT(2) of that Act (cases involving applicants for parental orders under section 54 of the Human Fertilisation and Embryology Act 2008).”

Commencement Information

I312 Sch. 7 para. 3(1)(2) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(b\)](#)

I313 Sch. 7 para. 3(3) in force at 1.12.2014 for specified purposes by [S.I. 2014/1640](#), [art. 5\(2\)\(b\)](#)

I314 Sch. 7 para. 3(3) in force at 5.4.2015 for specified purposes by [S.I. 2014/1640](#), [art. 7\(b\)](#) (with [art. 16](#))

4 After paragraph 5B there is inserted—

“Unfair shared parental leave provisions

5C (1) Where an employment-related benefit scheme includes any unfair shared parental leave provisions (irrespective of any differences on the basis of sex in the treatment accorded to members under those provisions), then—

- (a) the scheme shall be regarded to that extent as not complying with the principle of equal treatment; and
- (b) subject to sub-paragraph (3), this Schedule shall apply accordingly.

(2) In this paragraph “unfair shared parental leave provisions”, in relation to an employment-related benefit scheme, means any provision—

- (a) which relates to continuing membership of, or the accrual of rights under, the scheme during any period of paid shared parental leave in the case of any member who is (or who, immediately before the commencement of such a period, was) an employed earner and which treats such a member otherwise than in accordance with the normal employment requirement; or
- (b) which requires the amount of any benefit payable under the scheme to or in respect of any such member, to the extent that it falls to be

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determined by reference to earnings during a period which included a period of paid shared parental leave, to be determined otherwise than in accordance with the normal employment requirement.

- (3) In the case of any unfair shared parental leave provision—
- (a) the more favourable treatment required by paragraph 3(1) is treatment no less favourable than would be accorded to the member in accordance with the normal employment requirement; and
 - (b) paragraph 3(2) does not authorise the making of any such election as is there mentioned;

but, in respect of any period of paid shared parental leave, a member shall only be required to pay contributions on the amount of contractual remuneration or statutory shared parental pay actually paid to or for the member in respect of that period.

- (4) In this paragraph—
- “the normal employment requirement” is the requirement that any period of paid shared parental leave shall be treated as if it were a period throughout which the member in question works normally and receives the remuneration likely to be paid for doing so;
- “period of paid adoption leave” has the same meaning as in paragraph 5B;
- “period of paid paternity leave” has the same meaning as in paragraph 5A;
- “period of paid shared parental leave”, in the case of a member, means a period—
- (a) throughout which the member is absent from work in circumstances where sub-paragraph (5), (6), (7), (8), (9) or (10) applies, and
 - (b) for which the employer (or if the member is no longer in that person's employment, his former employer) pays the member any contractual remuneration or statutory shared parental pay.

- (5) This sub-paragraph applies if—
- (a) the member's absence from work is due to the birth of a child,
 - (b) the member is the mother of the child, and
 - (c) the absence from work is not absence on maternity leave (within the meaning of the Equality Act 2010).

- (6) This sub-paragraph applies if—
- (a) the member's absence from work is due to the birth of a child,
 - (b) the member is a person who satisfies the conditions prescribed under section 171ZU(4)(b)(i) or (ii) of the Social Security Contributions and Benefits Act 1992 in relation to the child, and
 - (c) the member's absence from work is not absence during a period of paid paternity leave.

- (7) This sub-paragraph applies if—
- (a) the member's absence from work is due to the placement of a child for adoption under the law of any part of the United Kingdom,
 - (b) the member is—

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- (i) a person with whom a child is placed for adoption under the law of any part of the United Kingdom, or
 - (ii) a person who satisfies the conditions prescribed under section 171ZV(4)(b)(i) or (ii) of the Social Security Contributions and Benefits Act 1992 in relation to the child, and
 - (c) the member's absence from work is not absence during—
 - (i) a period of paid paternity leave, or
 - (ii) a period of paid adoption leave.
- (8) This sub-paragraph applies if—
- (a) the member's absence from work is due to the placement of a child under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter,
 - (b) the member is—
 - (i) the local authority foster parent with whom the child in question is placed under section 22C of the Children Act 1989, or
 - (ii) a person who satisfies the conditions prescribed under section 171ZV(4)(b)(i) or (ii) of the Social Security Contributions and Benefits Act 1992, as modified by section 171ZV(18) of that Act (cases involving the placing of a child by a local authority in England with a local authority foster parent who has been approved as a prospective adopter), in relation to the child, and
 - (c) the member's absence from work is not absence during—
 - (i) a period of paid paternity leave, or
 - (ii) a period of paid adoption leave.
- (9) This sub-paragraph applies if—
- (a) the member's absence from work is due to the adoption or expected adoption of a child who has entered the United Kingdom in connection with or for the purposes of adoption which does not involve placement of the child for adoption under the law of any part of the United Kingdom,
 - (b) the member is—
 - (i) the person who has adopted or expects to adopt the child in question, or
 - (ii) a person who satisfies the conditions prescribed under section 171ZV(4)(b)(i) or (ii) of the Social Security Contributions and Benefits Act 1992, as applied by virtue of section 171ZZ5(1) of that Act (adoption cases not involving placement under the law of the United Kingdom), in relation to the child, and
 - (c) the member's absence from work is not absence during—
 - (i) a period of paid paternity leave, or
 - (ii) a period of paid adoption leave.
- (10) This sub-paragraph applies if—

Status: Point in time view as at 09/12/2021.

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- (a) the member's absence from work is due to the birth of a child,
- (b) the member is a person who has applied, or intends to apply, for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 in relation to the child, and
- (c) the member's absence from work is not absence during—
 - (i) a period of paid paternity leave, or
 - (ii) a period of paid adoption leave.”

Commencement Information

I315 Sch. 7 para. 4 in force at 1.12.2014 by S.I. 2014/1640, art. 5(2)(c)

Finance Act 1989 (c. 26)

- 5 (1) Section 182 of the Finance Act 1989 (offences relating to disclosure of information relating to social security functions etc) is amended as follows.
- (2) In subsection (1) (offence where official discloses information relating to an individual's tax affairs etc), in paragraph (c) (an individual's statutory pay)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.
- (3) In subsection (2A) (meaning of “social security functions”), in paragraph (a)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.
- (4) In subsection (4)(c) (offence where person discloses information relating to an individual's tax affairs etc), in sub-paragraph (iii) (an individual's statutory benefits and statutory pay)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.
- (5) In subsection (5)(b) (exception to offence: disclosure with consent)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.
- (6) In subsection (11A) (references to Great Britain statutory pay to include references to statutory pay under corresponding Northern Ireland legislation)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”;
 - (c) for “or Part 12ZB” there is substituted “, Part 12ZB or Part 12ZC”.

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Commencement Information

- I316** Sch. 7 para. 5(1)(2)(b)(3)(b)(4)(b)(5)(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(d\)](#) (with [art. 12](#))
- I317** Sch. 7 para. 5(2)(a)(3)(a)(4)(a)(5)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(c\)](#) (with [arts. 16, 17](#))
- I318** Sch. 7 para. 5(6) in force at 15.3.2015 being the date on which 1992 c. 7, Pt. 12ZC comes into force by virtue of S.R. 2015/86, art. 3(1)(d) by [S.I. 2014/1640](#), [art. 8\(a\)](#) (with [art. 18](#))

Social Security Contributions and Benefits Act 1992 (c. 4)

6 The Social Security Contributions and Benefits Act 1992 is amended as follows.

Commencement Information

- I319** Sch. 7 para. 6 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(e\)](#)

- 7 In section 1 (outline of contributory system), in subsection (5) (money provided by Parliament applied in relation to statutory pay)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “and statutory shared parental pay”.

Commencement Information

- I320** Sch. 7 para. 7(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(d\)](#) (with [art. 16](#))
- I321** Sch. 7 para. 7(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(f\)](#)

- 8 In section 4 (payments treated as remuneration and earnings), in subsection (1)(a)—
- (a) in sub-paragraph (iii), the word “ordinary” is repealed;
 - (b) sub-paragraph (iv) (additional statutory paternity pay) and the “or” following it are repealed;
 - (c) for the “and” following sub-paragraph (v) there is substituted “or (vi) statutory shared parental pay; and”.

Commencement Information

- I322** Sch. 7 para. 8(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(e\)](#) (with [art. 16](#))
- I323** Sch. 7 para. 8(b)(c) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(g\)](#)

- 9 In section 4C (power to make provision in consequence of provision made by or by virtue of section 4B etc), in subsection (11), in the definition of “statutory payment”, in paragraph (a)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

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Commencement Information

I324 Sch. 7 para. 9(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(f\)](#) (with [art. 16](#))

I325 Sch. 7 para. 9(b) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(c\)](#)

10 In the title of Part 12ZA, the words “Ordinary and additional” are repealed.

Commencement Information

I326 Sch. 7 para. 10 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

11 The italic cross-heading preceding section 171ZA is repealed.

Commencement Information

I327 Sch. 7 para. 11 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

12 (1) Section 171ZA (entitlement to ordinary statutory paternity pay: birth) is amended as follows.

(2) In subsection (1), for “ “ordinary statutory paternity pay”” there is substituted “ “statutory paternity pay” ”.

(3) In subsection (4), the word “ordinary” is repealed.

Commencement Information

I328 Sch. 7 para. 12 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

13 (1) Section 171ZB (entitlement to ordinary statutory paternity pay: adoption) is amended as follows.

(2) In subsection (1), for “ “ordinary statutory paternity pay”” there is substituted “ “statutory paternity pay” ”.

(3) In subsection (4), the word “ordinary” is repealed.

(4) In subsection (6), the word “ordinary” is repealed.

Commencement Information

I329 Sch. 7 para. 13 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

14 (1) Section 171ZC (entitlement to ordinary statutory paternity pay: general) is amended as follows.

(2) In subsection (1), the word “ordinary”, in both places it occurs, is repealed.

(3) In subsection (2), the word “ordinary” is repealed.

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Commencement Information

I330 Sch. 7 para. 14 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 15 (1) Section 171ZD (liability to pay ordinary statutory paternity pay) is amended as follows.
- (2) In subsection (1), the word “ordinary” is repealed.
- (3) In subsection (2)—
- (a) the word “ordinary”, in both places it occurs, is repealed;
 - (b) the words “or additional statutory paternity pay (or both)” are repealed.

Commencement Information

I331 Sch. 7 para. 15 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 16 (1) Section 171ZE (rate and period of pay) is amended as follows.
- (2) In subsection (1), the word “Ordinary” is repealed.
- (3) In subsection (2)—
- (a) in the words preceding paragraph (a), the word “Ordinary” is repealed;
 - (b) in paragraph (b), the word “ordinary” is repealed.
- (4) In subsection (4), the word “Ordinary” is repealed.
- (5) In subsection (5), the word “ordinary” is repealed.
- (6) In subsection (7), the word “ordinary”, in both places it occurs, is repealed.
- (7) In subsection (8), the word “ordinary” is repealed.
- (8) In subsection (10A), the word “ordinary”, in both places it occurs, is repealed.
- (9) In subsection (11), in the definition of “statutory pay week”, the word “ordinary”, in both places it occurs, is repealed.

Commencement Information

I332 Sch. 7 para. 16 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 17 The italic cross-heading preceding section 171ZEA is repealed.

Commencement Information

I333 Sch. 7 para. 17 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 18 The italic cross-heading preceding section 171ZF is repealed.

Commencement Information

I334 Sch. 7 para. 18 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

Status: Point in time view as at 09/12/2021.

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- 19 In section 171ZF (restrictions on contracting out), in subsection (2) (agreements which are not void for contracting out), for “ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “statutory paternity pay”.

Commencement Information

I335 Sch. 7 para. 19 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 20 In section 171ZG (relationship with contractual remuneration), subsection (4) is repealed.

Commencement Information

I336 Sch. 7 para. 20 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 21 (1) Section 171ZJ (provision supplementary to Part 12ZA) is amended as follows.
- (2) In subsection (5) (meaning of “week”), for “sections 171ZE and 171ZEE” there is substituted “section 171ZE”.
- (3) In subsection (10)(f) (regulations relating to NHS contracts treated as a single contract: provision for identifying the employer under the single contract), for “ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “statutory paternity pay”.

Commencement Information

I337 Sch. 7 para. 21 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

- 22 In section 176 (Parliamentary control of subordinate legislation), in subsection (1) (affirmative procedure), in paragraph (a), the words “171ZEA to 171ZEE;” are repealed.

Commencement Information

I338 Sch. 7 para. 22 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(g\)](#) (with [art. 16](#))

Social Security Administration Act 1992 (c. 5)

- 23 The Social Security Administration Act 1992 is amended as follows.

Commencement Information

I339 Sch. 7 para. 23 in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(d\)](#)

- 24 In section 5 (regulations about claims for and payments of benefits), in subsection (5) (application of provisions of subsection (1) to statutory pay)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay, ”;
- (b) after “statutory adoption pay” there is inserted “and statutory shared parental pay”.

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Commencement Information

I340 Sch. 7 para. 24(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(h\)](#) (with [art. 16](#))

I341 Sch. 7 para. 24(b) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(e\)](#)

- 25 In section 122AA (disclosure of contributions information etc by HMRC), in subsection (1) (disclosure to HSE etc or because of reciprocal agreements with other countries)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

Commencement Information

I342 Sch. 7 para. 25(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(i\)](#) (with [art. 16](#))

I343 Sch. 7 para. 25(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(h\)](#)

- 26 In section 150 (annual up-rating of benefits), in subsection (1) (sums to be reviewed), in paragraph (j), for “171ZEE(1) or 171ZN(1)” there is substituted “171ZN(2E)(b) or 171ZY(1)”.

Commencement Information

I344 Sch. 7 para. 26 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(j\)](#) (with [art. 16](#))

- 27 In section 163 (general financial arrangements), in subsection (1) (payments to be made out of the National Insurance Fund), in paragraph (d) (sums falling to be paid etc by HMRC under regulations relating to forms of statutory pay)—
- (a) for “ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “statutory paternity pay”;
 - (b) before the words “, falls to be” there is inserted “or statutory shared parental pay”.

Commencement Information

I345 Sch. 7 para. 27(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(k\)](#) (with [art. 16](#))

I346 Sch. 7 para. 27(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(i\)](#)

- 28 (1) Section 165 (adjustments between the National Insurance Fund and the Consolidated Fund) is amended as follows.
- (2) In subsection (1) (payments from National Insurance Fund into Consolidated Fund), in paragraph (b) (payments by way of adjustment in consequence of the operation of legislation relating to forms of statutory pay)—
- (a) in sub-paragraph (iii) (ordinary statutory paternity pay), the word “ordinary” is repealed;
 - (b) sub-paragraph (iv) (additional statutory paternity pay) and the “and” following it are repealed;
 - (c) in sub-paragraph (v), at the end there is inserted “; and

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(vi) statutory shared parental pay.”

- (3) In subsection (5) (payments from National Insurance Fund into Consolidated Fund), in paragraph (a) (sums in respect of HMRC administrative expenses)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

Commencement Information

I347 Sch. 7 para. 28(1)(2)(c)(3)(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(j\)](#)

I348 Sch. 7 para. 28(2)(a)(b)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(l\)](#) (with [art. 16](#))

Employment Rights Act 1996 (c. 18)

29 The Employment Rights Act 1996 is amended as follows.

Commencement Information

I349 Sch. 7 para. 29 in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(f\)](#)

- 30 In section 27 (meaning of “wages”), in subsection (1) (sums included)—
- (a) in paragraph (ca), for “ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “statutory paternity pay”;
 - (b) after paragraph (cb) there is inserted—
 - “(cc) statutory shared parental pay under Part 12ZC of that Act,”.

Commencement Information

I350 Sch. 7 para. 30(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(m\)](#) (with [art. 16](#))

I351 Sch. 7 para. 30(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(k\)](#)

- 31 In section 47C (right not to be subjected to detriment in connection with leave for family and domestic reasons), in subsection (2) (reasons that may be prescribed)—
- (a) after paragraph (ba) there is inserted—
 - “(bb) shared parental leave,”;
 - (b) in paragraph (ca) (paternity leave), the words “ordinary or additional” are repealed.

Commencement Information

I352 Sch. 7 para. 31(a) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(g\)](#)

I353 Sch. 7 para. 31(b) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(n\)](#) (with [art. 16](#))

- 32 In section 80A (entitlement to ordinary paternity leave: birth), in the title, the word “ordinary” is repealed.

Status: Point in time view as at 09/12/2021.

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Commencement Information

I354 Sch. 7 para. 32 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(o\)](#) (with [art. 16](#))

- 33 In section 80B (entitlement to ordinary paternity leave: adoption), in the title, the word “ordinary” is repealed.

Commencement Information

I355 Sch. 7 para. 33 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(o\)](#) (with [art. 16](#))

- 34 (1) Section 80C (rights during and after ordinary and additional paternity leave) is amended as follows.
- (2) In subsection (1) (provision as to rights under section 80A or 80AA), the words “or 80AA” are repealed.
- (3) In subsection (2) (absence on leave under section 80A or 80AA may include a period of other statutory leave)—
- (a) the words “or 80AA” are repealed;
 - (b) paragraph (za) (leave under section 80AA) is repealed;
 - (c) the “and” following paragraph (b) is repealed;
 - (d) after paragraph (b) there is inserted—
“ba) shared parental leave, and”.
- (4) In subsection (3) (provision as to rights under section 80B or 80BB)—
- (a) the words “or 80BB” are repealed;
 - (b) the words “or 80AA” are repealed.
- (5) In subsection (4) (absence on leave under section 80B or 80BB may include a period of other statutory leave)—
- (a) the words “or 80BB” are repealed;
 - (b) paragraph (za) (leave under section 80BB) is repealed;
 - (c) after paragraph (b) there is inserted—
“ba) shared parental leave,”;
 - (d) in paragraph (d) (leave under section 80A or 80AA), the words “or 80AA” are repealed.
- (6) In subsection (6) (provision as to remuneration), for “any of sections 80A to 80BB” there is substituted “section 80A or 80B”.
- (7) In subsection (7) (provision as to seniority on return etc), for “any of sections 80A to 80BB” there is substituted “section 80A or 80B”.

Commencement Information

I356 Sch. 7 para. 34(1)(3)(c)(d)(5)(c) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(h\)](#)

I357 Sch. 7 para. 34(2)(3)(a)(b)(4)(5)(a)(b)(d)(6)(7) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(p\)](#) (with [art. 16](#))

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- 35 In section 80D (provision as to redundancy or dismissal), in subsection (1), for “, 80AA, 80B or 80BB” there is substituted “ or 80B ”.

Commencement Information

I358 Sch. 7 para. 35 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(q\)](#) (with [art. 16](#))

- 36 (1) Section 80E (supplemental to Chapter 3 of Part 8) is amended as follows.
- (2) In subsection (1) (provision that may be made by regulations), for “any of sections 80A to 80BB”, in each place it occurs, there is substituted “ section 80A or 80B ”.
- (3) Subsection (2) (persons who may be subjected to duties in connection with employees exercising rights under section 80AA or 80BB) is repealed.

Commencement Information

I359 Sch. 7 para. 36 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(q\)](#) (with [art. 16](#))

- 37 (1) Section 88 (liability of employer to pay employee during period of notice: employments with normal working hours) is amended as follows.
- (2) In subsection (1)(c) (liability to employee who is absent from work because of pregnancy etc)—
- (a) after “adoption leave,” there is inserted “ shared parental leave, ”;
- (b) for “ordinary or additional paternity leave” there is substituted “ paternity leave ”.
- (3) In subsection (2) (certain payments during the period of notice treated as meeting employer's liability)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay” there is substituted “ statutory paternity pay ”;
- (b) after “statutory adoption pay,” there is inserted “ shared parental pay, statutory shared parental pay, ”.

Commencement Information

I360 Sch. 7 para. 37(1)(2)(a)(3)(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(l\)](#)

I361 Sch. 7 para. 37(2)(b)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(r\)](#) (with [art. 16](#))

- 38 (1) Section 89 (effect of notice of termination: employments without normal working hours) is amended as follows.
- (2) In subsection (3)(b) (effect of absence from work because of pregnancy etc during the period of notice)—
- (a) after “adoption leave,” there is inserted “ shared parental leave, ”;
- (b) for “ordinary or additional paternity leave” there is substituted “ paternity leave ”.
- (3) In subsection (4) (certain payments during the period of notice treated as remuneration)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay” there is substituted “ statutory paternity pay ”;

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- (b) after “statutory adoption pay,” there is inserted “ shared parental pay, statutory shared parental pay,”.

Commencement Information

I362 Sch. 7 para. 38(1)(2)(a)(3)(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(m\)](#)

I363 Sch. 7 para. 38(2)(b)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(s\)](#) (with [art. 16](#))

- 39 In section 99 (dismissal to be regarded as unfair where the dismissal relates to leave for family reasons), in subsection (3) (reasons or sets of circumstances that may be prescribed)—

(a) after paragraph (ba) there is inserted—

“(bb) shared parental leave,”;

(b) in paragraph (ca), for “ordinary or additional paternity leave” there is substituted “ paternity leave ”.

Commencement Information

I364 Sch. 7 para. 39(a) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(i\)](#)

I365 Sch. 7 para. 39(b) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(t\)](#) (with [art. 16](#))

- 40 In section 106 (dismissal of employee engaged as replacement for person absent from work because of pregnancy etc), in subsection (2)(a), for “leave under section 80AA or 80BB (additional paternity leave)” there is substituted “ shared parental leave ”.

Commencement Information

I366 Sch. 7 para. 40 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(n\)](#) (with [art. 12](#))

- 41 In section 230 (meaning of “employee”, etc), after subsection (6) there is inserted—
 “(7) This section has effect subject to section 75K(3) and (5).”

Commencement Information

I367 Sch. 7 para. 41 in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(j\)](#)

- 42 In section 235 (other definitions), in subsection (1)—
- (a) for the definition of “ordinary or additional paternity leave” there is substituted—
 ““paternity leave” means leave under section 80A or 80B,”;
- (b) in the definition of “week”, in paragraph (b), after “in sections” there is inserted “ 75F, 75H, ”;
- (c) at the appropriate place there is inserted—
 ““shared parental leave” means leave under section 75E or 75G,”.

Status: Point in time view as at 09/12/2021.

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Commencement Information

I368 Sch. 7 para. 42(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(u\)](#) (with [art. 16](#))

I369 Sch. 7 para. 42(b)(c) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(k\)](#)

- 43 In section 236 (orders and regulations), in subsection (3) (affirmative procedure), the following are repealed—
- (a) “80AA,”;
 - (b) “80BB,”.

Commencement Information

I370 Sch. 7 para. 43 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(v\)](#) (with [art. 16](#))

Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)

- 44 The Social Security Contributions (Transfer of Functions, etc.) Act 1999 is amended as follows.

Commencement Information

I371 Sch. 7 para. 44 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(o\)](#)

- 45 (1) Section 8 (decisions by officers of Revenue and Customs) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (f), for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “ statutory paternity pay, ”;
 - (b) in paragraph (f), after “statutory adoption pay” there is inserted “ or statutory shared parental pay ”;
 - (c) in paragraph (g), for “to 12ZB” there is substituted “ to 12ZC ”;
 - (d) in paragraph (g), for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “ statutory paternity pay, ”;
 - (e) in paragraph (g), after “statutory adoption pay” there is inserted “ and statutory shared parental pay ”;
 - (f) in paragraph (ga), for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “ statutory paternity pay, ”;
 - (g) in paragraph (ga), after “statutory adoption pay” there is inserted “ or statutory shared parental pay ”.
- (3) In subsection (3)(b)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “ statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “ or statutory shared parental pay ”.

Commencement Information

I372 Sch. 7 para. 45(1)(2)(b)(c)(e)(g)(3)(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(p\)](#)

Status: Point in time view as at 09/12/2021.

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I373 Sch. 7 para. 45(2)(a)(d)(f)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(w\)](#) (with [art. 16](#))

- 46 In section 11 (appeals against decisions of officers of Revenue and Customs), in subsection (2)(a)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

Commencement Information

I374 Sch. 7 para. 46(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(x\)](#) (with [art. 16](#))

I375 Sch. 7 para. 46(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(q\)](#)

- 47 (1) Section 14 (matters arising as respects decisions) is amended as follows.
- (2) In subsection (1) (regulations as to matters arising pending a decision etc), in paragraph (a)(i)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.
- (3) In subsection (3) (regulations requiring concurrence of the Secretary of State)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

Commencement Information

I376 Sch. 7 para. 47(1)(2)(b)(3)(b) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(l\)](#)

I377 Sch. 7 para. 47(2)(a)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(y\)](#) (with [art. 16](#))

Finance Act 1999 (c. 16)

- 48 (1) Sections 132 and 133 of the Finance Act 1999 have effect as if statutory shared parental pay were a matter which is under the care and management of the Commissioners for Revenue and Customs.
- (2) In this paragraph “statutory shared parental pay” includes statutory pay under Northern Ireland legislation corresponding to the provisions of Part 12ZC of the Social Security Contributions and Benefits Act 1992.

Commencement Information

I378 Sch. 7 para. 48(1) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(m\)](#)

I379 Sch. 7 para. 48(2) in force at 15.3.2015 being the date on which 1992 c. 7, Pt. 12ZC comes into force by virtue of S.R. 2015/86, art. 3(1)(d) by [S.I. 2014/1640](#), [art. 8\(b\)](#)

Status: Point in time view as at 09/12/2021.

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Finance Act 2000 (c. 17)

- 49 In Schedule 15 to the Finance Act 2000 (the corporate venturing scheme), in paragraph 22A (qualifying issuing company: full-time equivalent employee number to be less than 50), in sub-paragraph (4) (who is an employee), in paragraph (b)(i) (exception relating to certain leave), for “or paternity” there is substituted “, paternity or shared parental”.

Commencement Information

I380 Sch. 7 para. 49 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(r\)](#)

Employment Act 2002 (c. 22)

- 50 The Employment Act 2002 is amended as follows.

Commencement Information

I381 Sch. 7 para. 50 in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(n\)](#)

- 51 (1) Section 7 (funding of employers' liabilities as regards certain statutory pay) is amended as follows.
- (2) In subsection (1) (power to make regulations regarding the funding of statutory pay by Her Majesty's Revenue and Customs)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “and statutory shared parental pay”.
- (3) In subsection (2) (recovery relating to small employers' relief)—
- (a) in paragraph (a)—
 - (i) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (ii) after “statutory adoption pay” there is inserted “or statutory shared parental pay”;
 - (b) in paragraph (b)—
 - (i) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (ii) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.
- (4) In subsection (3) (payments treated as qualifying for small employers' relief)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay”, in the first place it occurs, there is inserted “or statutory shared parental pay”;
 - (c) for the words from “treating the period” to the end there is substituted “treating—
 - “(a) the period for which the payment of statutory paternity pay is made,”

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- (b) the payee's adoption pay period, or
 - (c) the period for which the payment of statutory shared parental pay is made,
- as the maternity pay period.”

Commencement Information

I382 Sch. 7 para. 51(1)(2)(b)(3)(a)(ii)(b)(ii)(4)(b)(c) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(o\)](#) (with [art. 9](#))

I383 Sch. 7 para. 51(2)(a)(i)(b)(i)(4)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(z\)](#) (with [art. 16](#))

- 52 (1) Section 8 (regulations about payment) is amended as follows.
- (2) In subsection (1) (power to make regulations with respect to payment by employers of statutory pay)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “and statutory shared parental pay”.
- (3) In subsection (2) (further provision as to regulations)—
- (a) in paragraph (a)—
 - (i) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay,”;
 - (ii) after “statutory adoption pay” there is inserted “and statutory shared parental pay”;
 - (b) in paragraph (b)—
 - (i) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay,”;
 - (ii) after “statutory adoption pay” there is inserted “and statutory shared parental pay”;
 - (c) in paragraph (d)—
 - (i) for “ordinary statutory paternity pay, additional statutory paternity pay and” there is substituted “statutory paternity pay,”;
 - (ii) after “statutory adoption pay” there is inserted “and statutory shared parental pay”.

Commencement Information

I384 Sch. 7 para. 52(1)(2)(b)(3)(a)(ii)(b)(ii)(c)(ii) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(p\)](#)

I385 Sch. 7 para. 52(2)(a)(3)(a)(i)(b)(i)(c)(i) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(aa\)](#) (with [art. 16](#))

- 53 (1) Section 10 (powers to require information) is amended as follows.
- (2) In subsection (1) (power to make regulations requiring the production of information or documents)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

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- (3) In subsection (2) (persons who may be specified as liable to produce information or documents), in paragraph (a)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

Commencement Information

I386 Sch. 7 para. 53(1)(2)(b)(3)(b) in force at 30.6.2014 by [S.I. 2014/1640](#), [art. 3\(2\)\(q\)](#)

I387 Sch. 7 para. 53(2)(a)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(bb\)](#) (with [art. 16](#))

- 54 In section 11 (penalties for failure to comply), in subsection (6) (failures to make payments)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”.

Commencement Information

I388 Sch. 7 para. 54(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(cc\)](#) (with [art. 16](#))

I389 Sch. 7 para. 54(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(s\)](#)

- 55 (1) Section 12 (penalties for fraud or negligence) is amended as follows.
- (2) In subsection (1) (incorrect statement or declaration: ordinary statutory paternity pay)—
- (a) in paragraph (a), the word “ordinary” is repealed;
 - (b) in paragraph (b), the word “ordinary” is repealed.
- (3) In subsection (2) (incorrect statement or declaration: statutory adoption pay or additional statutory paternity pay)—
- (a) in paragraph (a), for “additional statutory paternity pay” there is substituted “statutory shared parental pay”;
 - (b) in paragraph (b), for “additional statutory paternity pay” there is substituted “statutory shared parental pay”.
- (4) In subsection (3) (incorrect payment: ordinary statutory paternity pay), the word “ordinary” is repealed.
- (5) In subsection (4) (incorrect payment: statutory adoption pay or additional statutory paternity pay), for “additional statutory paternity pay” there is substituted “statutory shared parental pay”.
- (6) In subsection (5) (fraudulently or negligently providing incorrect information or receiving incorrect payments), the word “ordinary” is repealed.

Commencement Information

I390 Sch. 7 para. 55(1)(3)(5) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(t\)](#) (with [art. 12](#))

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I391 Sch. 7 para. 55(2)(4)(6) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(dd\)](#) (with [art. 16](#))

- 56 In section 13 (supply of information held by Her Majesty's Revenue and Customs), in subsection (1)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “ statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “ or statutory shared parental pay ”.

Commencement Information

I392 Sch. 7 para. 56(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(ee\)](#) (with [arts. 16, 19](#))

I393 Sch. 7 para. 56(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(u\)](#)

- 57 (1) Section 14 (supply of information held by the Secretary of State) is amended as follows.
- (2) In subsection (1)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “ statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “ or statutory shared parental pay ”.
- (3) In subsection (2)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “ statutory paternity pay, ”;
 - (b) after “statutory adoption pay” there is inserted “ or statutory shared parental pay ”.

Commencement Information

I394 Sch. 7 para. 57(1)(2)(b)(3)(b) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(v\)](#)

I395 Sch. 7 para. 57(2)(a)(3)(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(ff\)](#) (with [arts. 16, 19](#))

- 58 In section 15 (use of information by Her Majesty's Revenue and Customs), in subsection (2) (functions for the purposes of which information may be used)—
- (a) in paragraph (a) (functions relating to ordinary statutory paternity pay), the word “ordinary” is repealed;
 - (b) paragraph (aa) (functions relating to additional statutory paternity pay) is repealed;
 - (c) the “and” following paragraph (b) is repealed;
 - (d) after paragraph (b) there is inserted—
 - “(ba) their functions in relation to statutory shared parental pay; and”.

Commencement Information

I396 Sch. 7 para. 58(a)(b) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(gg\)](#) (with [arts. 16, 19](#))

I397 Sch. 7 para. 58(c)(d) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(w\)](#)

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- 59 In section 55 (short title etc), in subsection (8) (references to Great Britain statutory pay to include statutory pay under corresponding Northern Ireland legislation)—
- (a) for “ordinary statutory paternity pay, additional statutory paternity pay or” there is substituted “statutory paternity pay,”;
 - (b) after “statutory adoption pay” there is inserted “or statutory shared parental pay”;
 - (c) for “or Part 12ZB” there is substituted “, Part 12ZB or Part 12ZC”.

Commencement Information

- I398** Sch. 7 para. 59 in force at 15.3.2015 being the date on which 1992 c. 7, Pt. 12ZC comes into force by virtue of S.R. 2015/86, art. 3(1)(d) by [S.I. 2014/1640](#), [art. 8\(c\)](#) (with [art. 18](#))
- I399** Sch. 7 para. 59(a) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(hh\)](#) (with [art. 16](#))

Proceeds of Crime Act 2002 (c. 29)

- 60 (1) Section 323 of the Proceeds of Crime Act 2002 (Revenue functions) is amended as follows.
- (2) In subsection (1) (general Revenue functions)—
- (a) in paragraph (g) (ordinary statutory paternity pay), the word “ordinary” is repealed;
 - (b) paragraph (ga) (additional statutory paternity pay) is repealed;
 - (c) after paragraph (h) there is inserted—
“(ha) statutory shared parental pay;”.
- (3) In subsection (4) (interpretation: Great Britain)—
- (a) in paragraph (d), for ““ordinary statutory paternity pay”” there is substituted ““statutory paternity pay””;
 - (b) paragraph (da) (meaning of “additional statutory paternity pay”) is repealed;
 - (c) after paragraph (e) there is inserted—
“(ea) statutory shared parental pay” must be construed in accordance with sections 171ZU and 171ZV of that Act;”.
- (4) In subsection (5) (interpretation: Northern Ireland)—
- (a) in paragraph (d) (construction of “ordinary statutory paternity pay” and “additional statutory paternity pay”), for ““ordinary statutory paternity pay” and “additional statutory paternity pay”” there is substituted ““statutory paternity pay””;
 - (b) after paragraph (e) there is inserted—
“(ea) statutory shared parental pay” must be construed in accordance with any Northern Ireland legislation which corresponds to Part 12ZC of that Act;”.

Commencement Information

- I400** Sch. 7 para. 60(1)(2)(c)(3)(c) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(x\)](#)
- I401** Sch. 7 para. 60(2)(a)(b)(3)(a)(b) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(ii\)](#) (with [arts. 16, 19](#))
- I402** Sch. 7 para. 60(4) in force at 15.3.2015 being the date on which 1992 c. 7, Pt. 12ZC comes into force by virtue of S.R. 2015/86, art. 3(1)(d) by [S.I. 2014/1640](#), [art. 8\(d\)](#) (with [art. 18](#))

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Income Tax (Earnings and Pensions) Act 2003 (c. 1)

61 The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.

Commencement Information

I403 Sch. 7 para. 61 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(y\)](#)

- 62 (1) Section 660 (taxable benefits: UK benefits - Table A) is amended as follows.
- (2) In subsection (1), in Table A, the entry relating to additional statutory paternity pay is repealed.
- (3) In subsection (1), in Table A, in the entry relating to ordinary statutory paternity pay, in the left hand column, for “Ordinary statutory” there is substituted “Statutory”.
- (4) In subsection (1), in Table A, after the entry relating to statutory maternity pay there is inserted—

“Statutory shared parental pay	SSCBA 1992	Section 171ZU or 171ZV
	Any provision made for Northern Ireland which corresponds to section 171ZU or 171ZV of SSCBA 1992”.	

- (5) In subsection (2)—
- (a) the entry relating to additional statutory paternity pay is repealed;
- (b) in the entry relating to ordinary statutory paternity pay, the word “ordinary” is repealed;
- (c) after the entry relating to statutory maternity pay there is inserted— “statutory shared parental pay;”.

Commencement Information

I404 Sch. 7 para. 62(1)(4)(5)(c) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(z\)](#)

I405 Sch. 7 para. 62(2)(3)(5)(a)(b) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(jj\)](#) (with [art. 16](#))

- 63 (1) Schedule 5 (enterprise management incentives) is amended as follows.
- (2) In paragraph 12A (the number of employees requirement), in sub-paragraph (4) (who is an employee), in paragraph (b)(i) (exception relating to certain leave), for “or paternity” there is substituted “, paternity or shared parental”.
- (3) In paragraph 26 (eligible employees: requirement as to commitment of working time), in sub-paragraph (3) (what is committed time), after “paternity leave” there is inserted “, shared parental leave”.

Commencement Information

I406 Sch. 7 para. 63 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(aa\)](#)

Status: Point in time view as at 09/12/2021.

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Commissioners for Revenue and Customs Act 2005 (c. 11)

- 64 (1) Schedule 1 to the Commissioners for Revenue and Customs Act 2005 (former Inland Revenue matters where functions vest in officers of Revenue and Customs) is amended as follows.
- (2) In paragraph 26 (ordinary statutory paternity pay), for “Ordinary statutory” there is substituted “Statutory”.
- (3) Paragraph 26A (additional statutory paternity pay) is repealed.
- (4) After paragraph 26A there is inserted—
“26B Statutory shared parental pay.”

Commencement Information

I407 Sch. 7 para. 64(1)(4) in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(bb\)](#)

I408 Sch. 7 para. 64(2)(3) in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(kk\)](#) (with [arts. 16, 19](#))

Work and Families Act 2006 (c. 18)

- 65 The Work and Families Act 2006 is amended as follows.

Commencement Information

I409 Sch. 7 para. 65 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(II\)](#) (with [art. 16](#))

- 66 Sections 3 to 10 (additional paternity leave and additional statutory paternity pay) are repealed.

Commencement Information

I410 Sch. 7 para. 66 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(II\)](#) (with [art. 16](#))

- 67 Section 11(2) (treatment of references to statutory paternity pay) is repealed.

Commencement Information

I411 Sch. 7 para. 67 in force at 5.4.2015 by [S.I. 2014/1640](#), [art. 7\(II\)](#) (with [art. 16](#))

- 68 In Schedule 1 (leave and pay related to birth or adoption: further amendments), paragraphs 1(4), 11, 17, 19, 22, 38(3), 49 and 57(b) are repealed.

Commencement Information

I412 Sch. 7 para. 68 in force at 15.3.2015 for specified purposes, that being the date on which 1992 c. 7, Pt. 12ZC comes into force by virtue of S.R. 2015/86, art. 3(1)(d) by [S.I. 2014/1640](#), [art. 8\(e\)](#)

I413 Sch. 7 para. 68 in force at 5.4.2015 for specified purposes by [S.I. 2014/1640](#), [art. 7\(mm\)](#) (with [art. 16](#))

Status: Point in time view as at 09/12/2021.

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Income Tax Act 2007 (c. 3)

69 The Income Tax Act 2007 is amended as follows.

Commencement Information

I414 Sch. 7 para. 69 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(cc\)](#)

70 In section 186A (enterprise investment schemes: the number of employees requirement for an issuing company), in subsection (4) (who is an employee), in paragraph (b)(i) (exception relating to certain leave), for “or paternity” there is substituted “, paternity or shared parental”.

Commencement Information

I415 Sch. 7 para. 70 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(cc\)](#)

71 In section 257DJ (seed enterprise investment schemes: the number of employees requirement for an issuing company), in subsection (4) (who is an employee), in paragraph (b)(i), for “or paternity” there is substituted “, paternity or shared parental”.

Commencement Information

I416 Sch. 7 para. 71 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(cc\)](#)

72 In section 297A (venture capital trusts: the number of employees requirement for a qualifying holding), in subsection (4) (who is an employee), in paragraph (b)(i), for “or paternity” there is substituted “, paternity or shared parental”.

Commencement Information

I417 Sch. 7 para. 72 in force at 1.12.2014 by [S.I. 2014/1640](#), [art. 5\(2\)\(cc\)](#)

Welfare Reform Act 2007 (c. 5)

73 (1) Section 20 of the Welfare Reform Act 2007 (relationship with statutory payments) is amended as follows.

(2) In subsection (6) (no entitlement to an employment and support allowance during an additional paternity pay period)—

- (a) for “additional statutory paternity pay” there is substituted “ statutory shared parental pay ”;
- (b) for “a day that falls within the additional paternity pay period” there is substituted “ a day that falls within a period in respect of which statutory shared parental pay is payable ”.

(3) In subsection (7) (regulations providing for exceptions to subsection (6)), in paragraph (a), for “additional statutory paternity pay for a period” there is substituted “ statutory shared parental pay for a period ”.

Status: Point in time view as at 09/12/2021.

Changes to legislation: Children and Families Act 2014 is up to date with all changes known to be in force on or before 01 June 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. (See end of Document for details)

(4) In subsection (8) (definitions), the definition of “the additional paternity pay period” is repealed.

Commencement Information

I418 Sch. 7 para. 73(1)(2)(3) in force at 30.6.2014 by S.I. 2014/1640, **art. 3(2)(r)** (with **art. 9**)

I419 Sch. 7 para. 73(4) in force at 5.4.2015 by S.I. 2014/1640, **art. 7(nn)** (with **art. 16**)

Pensions Act 2008 (c. 30)

74 In section 13 of the Pensions Act 2008 (qualifying earnings), in subsection (3) (meaning of “earnings”)—

(a) in paragraph (d), for “ordinary statutory paternity pay or additional statutory paternity pay” there is substituted “statutory paternity pay”;

(b) after paragraph (e) there is inserted—

“(ea) statutory shared parental pay under Part 12ZC of that Act;”.

Commencement Information

I420 Sch. 7 para. 74(a) in force at 5.4.2015 by S.I. 2014/1640, **art. 7(oo)** (with **art. 16**)

I421 Sch. 7 para. 74(b) in force at 1.12.2014 by S.I. 2014/1640, **art. 5(2)(dd)**

Welfare Reform Act 2012 (c. 5)

75 In the Welfare Reform Act 2012, in section 63 (entitlement to be in employment as condition for receiving maternity allowance or statutory pay), subsections (6) and (7) are repealed.

Commencement Information

I422 Sch. 7 para. 75 in force at 5.4.2015 by S.I. 2014/1640, **art. 7(pp)** (with **art. 16**)

Status:

Point in time view as at 09/12/2021.

Changes to legislation:

Children and Families Act 2014 is up to date with all changes known to be in force on or before 01 June 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.