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STATUTORY INSTRUMENTS

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**2012 No. 1087 (C. 33)**

**EDUCATION, ENGLAND AND WALES**

**The Education Act 2011 (Commencement No. 4 and  
Transitional and Savings Provisions) Order 2012**

*Made* - - - - *12th April 2012*

The Secretary of State for Education makes the following Order in exercise of the powers conferred by section 82(3) and (7) of the Education Act 2011<sup>(1)</sup>.

**Citation and interpretation**

1.—(1) This Order may be cited as the Education Act 2011 (Commencement No. 4 and Transitional and Savings Provisions) Order 2012.

(2) In this Order—

“ASCLA 2009” means the Apprenticeships, Skills, Learning and Children Act 2009<sup>(2)</sup>;

“EA 2011” means the Education Act 2011.

**Provisions coming into force on 1st August 2012**

2. The following provisions of EA 2011 come into force on 1st August 2012—

section 45;

section 73(2)(a) and (b), and section 73(2)(c) to the extent that it relates to section 88(2A) of ASCLA 2009 (as inserted by section 73(2)(b)), and section 73(1) to the extent that it relates to those subsections.

**Provisions coming into force on 1st September 2012**

3. The following provisions of EA 2011 come into force on 1st September 2012—

section 1(1) and section 1(2) for the purposes only of making regulations under section 7 of the Childcare Act 2006<sup>(3)</sup> (as substituted by section 1(2)), section 1(3) and section 1(1) to the extent that it relates to section 1(3), and section 1(4);

section 4 and Schedule 1;

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(1) 2011 c. 21.  
(2) 2009 c. 22.  
(3) 2006 c. 21.

section 28 to the extent that it is not already in force;  
section 29 to the extent that it is not already in force;  
section 38;  
section 39;  
section 50 but not in respect of any funding period<sup>(4)</sup> before 1 April 2013;  
section 69 and Schedule 18;  
section 70.

### **Transitional and savings provisions**

**4.** Despite the coming into force of section 4 of, and Schedule 1 to, EA 2011, that section and Schedule have no effect in relation to the exclusion of a pupil before 1st September 2012 and the enactments amended by that section and Schedule continue in force in relation to such an exclusion as if the amendments in that section and Schedule were not made.

**5.** Despite the coming into force of section 38 of EA 2011, the amendments made by subsections (2) and (3) of that section do not have effect in relation to the governing body of a maintained school in England constituted under an instrument of government<sup>(5)</sup> that takes effect before 1st September 2012, until the governing body or the local authority decide that the instrument of government should be varied.

**6.** Despite the coming into force of section 45 of EA 2011, section 45(1) and (2)(b), (c), (e) and (h) have no effect in relation to a complaint that is made to a Local Commissioner<sup>(6)</sup> before 1st August 2012, unless the Local Commissioner has declined to initiate an investigation into the complaint on the grounds in section 207(3)(a) of ASCLA 2009.

12th April 2012

*Nick Gibb*  
Minister of State  
Department for Education

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(4) For the meaning of “funding period” see section 45 of the School Standards and Framework Act 1998 (c.31) which was amended by paragraph 2 of Schedule 16 to the Education Act 2005 (c. 18).

(5) For the meaning of “instrument of government” see section 20 of the Education Act 2002 (c. 32).

(6) For the meaning of “Local Commissioner” see section 23 of the Local Government Act 1974 (c. 7).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 1st August and 1st September 2012 certain provisions of the Education Act 2011 as listed in Articles 2 and 3 respectively.

The provisions listed in Article 2 are section 45 which repeals the provisions in the Apprenticeships, Skills, Children and Learning Act 2009 (“ASCLA 2009”) that give the Local Commissioner for England the power to consider complaints from parents and pupils about maintained schools; and section 73(2) which amends section 88 of ASCLA 2009 to the extent that entitlements to fee remission on the first full vocational qualification at level 2 are restricted to those aged over 19 and under 24.

Article 3 brings into force section 1 partially: section 1(2) is commenced for the purposes of making regulations, while section 1(3), which makes provision for the supply of information, and 1(4), which repeals section 100 of the Childcare Act 2006, are commenced fully. Article 3 also brings into force section 4 and Schedule 1 which changes the law regarding the exclusion of pupils from maintained schools, Academies and PRUs; to the extent that it is not already in force, section 28 which is concerned with education and training support services in England; section 29 which relates to provision of careers guidance in schools in England; section 38 which amends the law relating to the constitution of governing bodies of maintained schools; section 39 which relates to the dissolution of a governing body on the discontinuance of a federated school; section 50 which amends the law relating to the financing of pupil referral units, but not in respect of funding periods before 1st April 2013; section 69 and Schedule 18 which amend the law relating to the apprenticeship offer; and section 70 which amends the duty on the Chief Executive of Skills Funding in relation to securing the provision of apprenticeship training.

Article 4 makes transitional provision in relation to appeals against exclusions made before 1st September 2012; Article 5 provides that the changes made by section 38 only apply to the governing bodies of maintained schools that are constituted under an instrument of government made or varied on or after 1st September 2012; and Article 6 makes transitional provision in relation to section 45 so that the Local Commissioner will still have responsibility for considering those complaints made to him before that section comes into force.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of this Act have been brought into force (or come into force at a later date) by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 2	1st April 2012	<a href="#">2012/924</a>
Section 3	1st April 2012	<a href="#">2012/924</a>
Section 5	15th January 2012	<a href="#">2012/84</a>
Section 7	1st April 2012	<a href="#">2012/924</a>
Section 8	1st April 2012	<a href="#">2012/924</a>

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 9	1st April 2012	<a href="#">2012/924</a>
Section 10	1st April 2012	<a href="#">2012/924</a>
Section 11 and Schedule 2	1st April 2012	<a href="#">2012/924</a>
Section 12 and Schedule 3	1st April 2012	<a href="#">2012/924</a>
Section 14	1st April 2012	<a href="#">2012/924</a>
Section 15	1st April 2012	<a href="#">2012/924</a>
Section 16 and Schedule 5	1st April 2012	<a href="#">2012/924</a>
Section 17 and Schedule 6	1st April 2012	<a href="#">2012/924</a>
Section 18	1st February 2012	<a href="#">2012/84</a>
Section 19	1st February 2012	<a href="#">2012/84</a>
Section 20	1st February 2012	<a href="#">2012/84</a>
Section 21 and Schedule 7	1st April 2012	<a href="#">2012/924</a>
Section 22	1st February 2012	<a href="#">2012/84</a>
Section 23	1st May 2012	<a href="#">2012/924</a>
Section 24	1st May 2012	<a href="#">2012/924</a>
Section 25	1st April 2012	<a href="#">2012/924</a>
Section 26 and Schedule 8 for certain purposes	15th January 2012	<a href="#">2012/84</a>
Section 26 and Schedule 8 fully	1st April 2012	<a href="#">2012/924</a>
Section 27 and Schedule 9	1st April 2012	<a href="#">2012/924</a>
Section 28(5)	1st February 2012	<a href="#">2012/84</a>
Section 29(1), (2) and (8) for the purposes of making regulations under section 46 EA 1997	1st February 2012	<a href="#">2012/84</a>
Section 32	1st February 2012	<a href="#">2012/84</a>
Section 34 and Schedule 10	1st February 2012	<a href="#">2012/84</a>
Section 35	1st February 2012	<a href="#">2012/84</a>
Section 36	1st February 2012	<a href="#">2012/84</a>
Section 37 and Schedule 11 for certain purposes	1st February 2012	<a href="#">2012/84</a>
Section 40(4)	1st February 2012	<a href="#">2012/84</a>
Section 42(8)	1st February 2012	<a href="#">2012/84</a>
Section 43	1st February 2012	<a href="#">2012/84</a>
Section 44	17th November 2011	<a href="#">2011/2750</a>
Section 46	1st February 2012	<a href="#">2012/84</a>
Section 49 and Schedule 12	1st April 2012	<a href="#">2012/924</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 51	15th January 2012	2012/84
Section 52	1st February 2012	2012/84
Section 53 for the purposes only of applying for and making Academy order in respect of alternative provision Academies under sections 3 and 4 of the Academies Act 2010	1st February 2012	2012/84
Section 53 fully	1st April 2012	2012/924
Section 54 and schedule 13 except for paragraph 17(2)	1st April 2012	2012/924
Section 55	1st February 2012	2012/84
Section 56	1st February 2012	2012/84
Section 57	1st April 2012	2012/924
Section 59	1st February 2012	2012/84
Section 60	1st February 2012	2012/84
Section 62	1st February 2012	2012/84
Section 63 and Schedule 14	1st February 2012	2012/84
Section 64	1st February 2012	2012/84
Section 65 and Schedule 15	1st February 2012	2012/84
Section 66	1st April 2012	2012/924
Section 67 and Schedule 16	1st April 2012	2012/924
Section 68 and Schedule 17	1st April 2012	2012/924
Section 71	1st April 2012	2012/924
Section 72	1st April 2012	2012/924
Section 73(3)	1st April 2012	2012/924
Section 74	1st February 2012	2012/84