Children and Families Act 2014

2014 CHAPTER 6

PART 5

WELFARE OF CHILDREN

Child performances

90 Extension of licensing of child performances to children under 14

Section 38 of the Children and Young Persons Act 1963 (licences for performances by children under 14 not to be granted except for certain dramatic or musical performances) is repealed.

VALID FROM 26/03/2015

Tobacco, nicotine products and smoking

91 Purchase of tobacco etc. on behalf of persons under 18

(1) A person aged 18 or over who buys or attempts to buy tobacco or cigarette papers on behalf of an individual aged under 18 commits an offence.

(2) Where a person is charged with an offence under this section it is a defence—

(a) that the person had no reason to suspect that the individual concerned was aged under 18, or

(b) in a case where the person has bought or attempted to buy cigarette papers, that the person had no reason to suspect that the individual concerned intended to use the papers for smoking.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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Changes to legislation: *There are currently no known outstanding effects for the Children and Families Act 2014, PART 5. (See end of Document for details)*

(4) A local weights and measures authority in England and Wales must enforce the provisions of this section in its area.

(5) Section 9 of, and Schedule 1 to, the Health Act 2006 (issue of fixed penalty notices in relation to certain smoking related offences) apply in relation to an offence under this section as they apply in relation to an offence under section 6(5) or 7(2) of that Act but with the following modifications—

(a) references to an enforcement authority are to be read as references to a local weights and measures authority;

(b) references to an authorised officer of an enforcement authority are to be read as references to any person authorised by a local weights and measures authority (whether or not an officer of the authority) in writing, either generally or specially, to act in matters arising under this section.

(6) Section 11 of, and Schedule 2 to, the Health Act 2006 (offence of obstruction of enforcement officers and powers of entry etc) apply for the purposes of this section as they apply for the purposes of Chapter 1 of Part 1 of that Act but with the following modifications—

(a) references to an enforcement authority are to be read as references to a local weights and measures authority;

(b) references to an authorised officer of an enforcement authority are to be read as references to any person (whether or not an officer of the authority) authorised by a local weights and measures authority in writing, either generally or specially, to act in matters arising under this section;

(c) references to Chapter 1 of Part 1 of the Act of 2006 are to be read as references to this section;

(d) section 11(5) is to be ignored;

(e) paragraph 10 of Schedule 2 is to be ignored.

(7) "Tobacco" has the same meaning in this section as in section 7 of the Children and Young Persons Act 1933 (offence of selling tobacco to children).

VALID FROM 01/10/2015

92 Prohibition of sale of nicotine products to persons under 18

(1) The Secretary of State may by regulations make provision prohibiting the sale of nicotine products to persons aged under 18.

(2) A person who breaches a prohibition in regulations under subsection (1) commits an offence.

(3) Subsection (2) does not apply if—

(a) at the time of the sale, the person to whom the nicotine product is sold is employed by a manufacturer of nicotine products to which regulations under subsection (1) apply or by a dealer in such products (whether wholesale or retail), and

(b) the purchase of the product is for the purposes of the manufacturer's or dealer's business.

(4) Where a person is charged with an offence under this section it is a defence that the person took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) The Secretary of State may by regulations—

(a) amend section 91 (purchase of tobacco etc on behalf of persons under 18) so as to apply it (with or without modifications) in relation to nicotine products, or

(b) provide for that section to apply (with or without modifications) in relation to nicotine products.

(7) Regulations under this section may make provision in relation to—

(a) all nicotine products,

(b) nicotine products of a specified kind, or

(c) nicotine products subject to specified exceptions.

(8) The Secretary of State must obtain the consent of the Welsh Ministers before making regulations under this section which would (if contained in an Act of the National Assembly for Wales) be within the legislative competence of that Assembly.

(9) For the purposes of this section "nicotine product" means—

(a) a device which is intended to enable nicotine to be consumed by an individual or otherwise to be delivered into the human body,

(b) an item which is intended to form part of a device within paragraph (a), or

(c) a substance or item which consists of or contains nicotine and which is intended for human consumption or otherwise to be delivered into the human body.

(10) It does not matter for the purposes of subsection (9)(a) whether the device is also intended to enable any other substance to be consumed by an individual or otherwise to be delivered into the human body.

(11) The following are not nicotine products for the purposes of this section—

(a) tobacco;

(b) cigarette papers;

(c) any device which is intended to be used for the consumption of lit tobacco.

(12) In this section—

"specified" means specified in regulations under this section;

"tobacco" has the same meaning as in section 7 of the Children and Young Persons Act 1933 (offence of selling tobacco to children).

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VALID FROM 01/10/2015

93 Amendments consequential on section 92

(1) The Children and Young Persons Act 1933 is amended in accordance with subsections (2) to (6).

(2) In the italic heading before section 12A, after "tobacco" insert " or nicotine products ".

(3) In section 12A (restricted premises orders)—

(a) in subsection (1), after "tobacco" insert " or nicotine ",

(b) in subsection (3), for "or cigarette papers" substitute " , cigarette papers or nicotine product ", and

(c) in subsection (7)(a), after "tobacco" insert " or nicotine ".

(4) In section 12B (restricted sale orders)—

(a) in subsection (1), after "tobacco" insert " or nicotine ",

(b) in subsection (3)—

(i) in paragraph (a), for "or cigarette papers" substitute " , cigarette papers or nicotine product ",

(ii) in paragraph (b), for "or cigarette papers" substitute " , cigarette papers or nicotine products ",

(iii) in each of paragraphs (c) and (d) omit "cigarette" in each place, and

(iv) in each of those paragraphs, after "tobacco" insert " or nicotine products ",

(c) in subsection (5), after "tobacco" insert " or nicotine ", and

(d) in subsection (6)—

(i) omit "cigarette", and

(ii) after "tobacco" insert " or nicotine products ".

(5) In section 12C(1)(a) (enforcement), for "or cigarette papers" substitute " , cigarette papers or nicotine product ".

(6) In section 12D (interpretation)—

(a) in subsection (1), in the opening words, for " "tobacco offence"" substitute " "tobacco or nicotine offence" ",

(b) in that subsection omit the "or" at the end of paragraph (b) and at the end of paragraph (c) insert ", or

(d) an offence committed under section 92 of the Children and Families Act 2014 on any premises (which are accordingly "the premises in relation to which the offence is committed").", and

(c) after subsection (2) insert—

"(2A) In sections 12A to 12C "nicotine product" means a nicotine product within the meaning of section 92 of the Children and Families Act 2014 the sale of which to persons aged under 18 is for the time being prohibited by regulations under subsection (1) of that section."

(7) In section 5 of the Children and Young Persons (Protection from Tobacco) Act 1991 (enforcement action by local authorities in England and Wales)—

(a) in subsection (1)(a), for "and sections 3 and 4 above" substitute " , sections 3 and 4 above and section 92 of the Children and Families Act 2014 (prohibition of sale of nicotine products to persons under 18) ", and

(b) after subsection (1) insert—

"(1A) Subsection (1) applies in relation to section 92 of the Children and Families Act 2014 only if regulations under subsection (1) of that section are for the time being in force."

(8) The Secretary of State may by regulations make provision amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (whenever passed or made) in connection with provision made by or under section 92.

(9) In subsection (8) "enactment" includes a Measure or Act of the National Assembly for Wales.

VALID FROM 01/10/2015

94 Regulation of retail packaging etc of tobacco products

(1) The Secretary of State may make regulations under subsection (6) or (8) if the Secretary of State considers that the regulations may contribute at any time to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18.

(2) Subsection (1) does not prevent the Secretary of State, in making regulations under subsection (6) or (8), from considering whether the regulations may contribute at any time to reducing the risk of harm to, or promoting, the health or welfare of people aged 18 or over.

(3) The Secretary of State may treat regulations under subsection (6) or (8) as capable of contributing to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18 if the Secretary of State considers that—

(a) at least some of the provisions of the regulations are capable of having that effect, or

(b) the regulations are capable of having that effect when taken together with other regulations that were previously made under subsection (6) or (8) and are in force.

(4) Regulations under subsection (6) or (8) are to be treated for the purposes of subsection (1) or (2) as capable of contributing to reducing the risk of harm to, or promoting, people's health or welfare if (for example) they may contribute to any of the following—

(a) discouraging people from starting to use tobacco products;

(b) encouraging people to give up using tobacco products;

(c) helping people who have given up, or are trying to give up, using tobacco products not to start using them again;

(d) reducing the appeal or attractiveness of tobacco products;

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(e) reducing the potential for elements of the packaging of tobacco products other than health warnings to detract from the effectiveness of those warnings;

(f) reducing opportunities for the packaging of tobacco products to mislead consumers about the effects of using them;

(g) reducing opportunities for the packaging of tobacco products to create false perceptions about the nature of such products;

(h) having an effect on attitudes, beliefs, intentions and behaviours relating to the reduction in use of tobacco products.

(5) Regulations under subsection (6) or (8) are to be treated for the purposes of subsection (1) as capable of contributing to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18 if—

(a) they may contribute to reducing activities by such people which risk harming their health or welfare after they reach the age of 18, or

(b) they may benefit such people by reducing the use of tobacco products among people aged 18 or over.

(6) The Secretary of State may by regulations make provision about the retail packaging of tobacco products.

(7) Regulations under subsection (6) may in particular impose prohibitions, requirements or limitations relating to—

(a) the markings on the retail packaging of tobacco products (including the use of branding, trademarks or logos);

(b) the appearance of such packaging;

(c) the materials used for such packaging;

(d) the texture of such packaging;

(e) the size of such packaging;

(f) the shape of such packaging;

(g) the means by which such packaging is opened;

(h) any other features of the retail packaging of tobacco products which could be used to distinguish between different brands of tobacco product;

(i) the number of individual tobacco products contained in an individual packet;

(j) the quantity of a tobacco product contained in an individual packet.

(8) The Secretary of State may by regulations make provision imposing prohibitions, requirements or limitations relating to—

(a) the markings on tobacco products (including the use of branding, trademarks or logos);

(b) the appearance of such products;

(c) the size of such products;

(d) the shape of such products;

(e) the flavour of such products;

(f) any other features of tobacco products which could be used to distinguish between different brands of tobacco product.

(9) The Secretary of State may by regulations—

(a) create offences which may be committed by persons who produce or supply tobacco products the retail packaging of which breaches prohibitions, requirements or limitations imposed by regulations under subsection (6);

(b) create offences which may be committed by persons who produce or supply tobacco products which breach prohibitions, requirements or limitations imposed by regulations under subsection (8);

(c) provide for exceptions and defences to such offences;

(d) make provision about the liability of others to be convicted of such offences if committed by a body corporate or a Scottish partnership.

(10) The Secretary of State may by regulations—

(a) provide that regulations under subsection (6) or (8) are to be treated for the purposes specified in regulations under this subsection as safety regulations within the meaning of the Consumer Protection Act 1987;

(b) make provision for the appropriate minister to direct, in relation to cases of a particular description or a particular case, that any duty imposed on a local weights and measures authority in Great Britain or a district council in Northern Ireland by virtue of provision under paragraph (a) is to be discharged instead by the appropriate minister.

(11) The Secretary of State may by regulations make provision amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (whenever passed or made) in connection with provision made by regulations under any of subsections (6), (8), (9) or (10).

(12) The Secretary of State must—

(a) obtain the consent of the Scottish Ministers before making regulations under any of subsections (6), (8), (9) or (10) containing provision which would (if contained in an Act of the Scottish Parliament) be within the legislative competence of that Parliament;

(b) obtain the consent of the Welsh Ministers before making regulations under any of those subsections containing provision which would (if contained in an Act of the National Assembly for Wales) be within the legislative competence of that Assembly;

(c) obtain the consent of the Office of the First Minister and deputy First Minister in Northern Ireland before making regulations under any of those subsections containing provision which would (if contained in an Act of the Northern Ireland Assembly) be within the legislative competence of that Assembly.

(13) For the purposes of this section a person produces a tobacco product if, in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person—

(a) manufactures the product,

(b) puts a name, trademark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator, or

(c) imports it into the United Kingdom.

(14) For the purposes of this section a person supplies a tobacco product if in the course of a business the person—

(a) supplies the product,

(b) offers or agrees to supply it, or

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(c) exposes or possesses it for supply.

(15) In this section—

"appropriate minister"—

(a) in relation to England, means the Secretary of State,

(b) in relation to Wales, means the Welsh Ministers,

(c) in relation to Northern Ireland, means the Department of Health, Social Services and Public Safety, and

(d) in relation to Scotland, means the Scottish Ministers;

"enactment" includes—

(a) an Act of the Scottish Parliament,

(b) a Measure or Act of the National Assembly for Wales, or

(c) Northern Ireland legislation;

"external packaging", "internal packaging" and "wrapper" have the meanings given by regulations under subsection (6);

"packaging", in relation to a tobacco product, means—

(a) the external packaging of that product,

(b) any internal packaging of that product,

(c) any wrapper of that product, or

(d) any other material attached to or included with that product or anything within paragraphs (a) to (c);

"retail packaging", in relation to a tobacco product, means the packaging in which it is, or is intended to be, presented for retail sale;

"retail sale" means sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade;

"tobacco product" means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed;

"travel retail sector" means retail outlets in the United Kingdom at which tobacco products may be purchased only by people travelling on journeys to destinations outside the United Kingdom.

VALID FROM 01/10/2015

95 Smoking in a private vehicle

(1) The Health Act 2006 is amended as follows.

(2) In section 5 (smoke-free vehicles)—

(a) after subsection (1) insert—

"(1A) Regulations under this section may in particular provide for a private vehicle to be smoke-free where a person under the age of 18 is present in the vehicle.", and

(b) in subsection (2), for "The regulations" substitute " Regulations under this section ".

(3) In section 9 (fixed penalties), after subsection (1) insert—

"(1A) The appropriate national authority may by regulations provide that, in the circumstances specified in the regulations, an authorised officer of an enforcement authority (see section 10) who has reason to believe that a person has committed an offence under section 8(4) in relation to a vehicle in relation to which the authorised officer has functions may give the person a penalty notice in respect of the offence."

(4) In section 10(1) (power to designate bodies or descriptions of body as enforcement authorities)—

(a) after "designating the" insert " persons or ", and

(b) after "descriptions of" insert " person or ".

(5) In section 79 (orders and regulations)—

(a) in subsection (4) (powers to which affirmative procedure applies), in paragraph (a) (powers in Part 1), for "or 8(7)" substitute " , 8(7) or 9(1A) ",

(b) in that subsection, in paragraph (f) (powers in Schedule 1), for "or 8" substitute " , 8 or 17 ", and

(c) after that subsection insert—

"(4A) No statutory instrument containing regulations under section 9(1A) or paragraph 17 of Schedule 1 may be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales."

(6) In Schedule 1 (fixed penalties), after paragraph 16 insert—

"**Power to amend or modify Schedule**

17 The appropriate national authority may by regulations—

(a) amend this Schedule so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority of a particular kind, or

(b) provide for this Schedule to apply with modifications in relation to such notices."

VALID FROM 01/04/2015

Young carers and parent carers

96 Young carers

(1) In the Children Act 1989, after section 17 insert—

"**17ZA Young carers' needs assessments: England**

(1) A local authority in England must assess whether a young carer within their area has needs for support and, if so, what those needs are, if—

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(a) it appears to the authority that the young carer may have needs for support, or

(b) the authority receive a request from the young carer or a parent of the young carer to assess the young carer's needs for support.

(2) An assessment under subsection (1) is referred to in this Part as a "young carer's needs assessment".

(3) In this Part "young carer" means a person under 18 who provides or intends to provide care for another person (but this is qualified by section 17ZB(3)).

(4) Subsection (1) does not apply in relation to a young carer if the local authority have previously carried out a care-related assessment of the young carer in relation to the same person cared for.

(5) But subsection (1) does apply (and so a young carer's needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the young carer or the person cared for have changed since the last care-related assessment.

(6) "Care-related assessment" means—

(a) a young carer's needs assessment;

(b) an assessment under any of the following—

(i) section 1 of the Carers (Recognition and Services) Act 1995;

(ii) section 1 of the Carers and Disabled Children Act 2000;

(iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.

(7) A young carer's needs assessment must include an assessment of whether it is appropriate for the young carer to provide, or continue to provide, care for the person in question, in the light of the young carer's needs for support, other needs and wishes.

(8) A local authority, in carrying out a young carer's needs assessment, must have regard to—

(a) the extent to which the young carer is participating in or wishes to participate in education, training or recreation, and

(b) the extent to which the young carer works or wishes to work.

(9) A local authority, in carrying out a young carer's needs assessment, must involve—

(a) the young carer,

(b) the young carer's parents, and

(c) any person who the young carer or a parent of the young carer requests the authority to involve.

(10) A local authority that have carried out a young carer's needs assessment must give a written record of the assessment to—

(a) the young carer,

(b) the young carer's parents, and

(c) any person to whom the young carer or a parent of the young carer requests the authority to give a copy.

(11) Where the person cared for is under 18, the written record must state whether the local authority consider him or her to be a child in need.

(12) A local authority in England must take reasonable steps to identify the extent to which there are young carers within their area who have needs for support.

17ZB Young carers' needs assessments: supplementary

(1) This section applies for the purposes of section 17ZA.

(2) "Parent", in relation to a young carer, includes—
- (a) a parent of the young carer who does not have parental responsibility for the young carer, and
- (b) a person who is not a parent of the young carer but who has parental responsibility for the young carer.

(3) A person is not a young carer if the person provides or intends to provide care—
- (a) under or by virtue of a contract, or
- (b) as voluntary work.

(4) But in a case where the local authority consider that the relationship between the person cared for and the person under 18 providing or intending to provide care is such that it would be appropriate for the person under 18 to be regarded as a young carer, that person is to be regarded as such (and subsection (3) is therefore to be ignored in that case).

(5) The references in section 17ZA and this section to providing care include a reference to providing practical or emotional support.

(6) Where a local authority—
- (a) are required to carry out a young carer's needs assessment, and
- (b) are required or have decided to carry out some other assessment of the young carer or of the person cared for;

the local authority may, subject to subsection (7), combine the assessments.

(7) A young carer's needs assessment may be combined with an assessment of the person cared for only if the young carer and the person cared for agree.

(8) The Secretary of State may by regulations make further provision about carrying out a young carer's needs assessment; the regulations may, in particular—
- (a) specify matters to which a local authority is to have regard in carrying out a young carer's needs assessment;
- (b) specify matters which a local authority is to determine in carrying out a young carer's needs assessment;
- (c) make provision about the manner in which a young carer's needs assessment is to be carried out;
- (d) make provision about the form a young carer's needs assessment is to take.

(9) The Secretary of State may by regulations amend the list in section 17ZA(6)(b) so as to—

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(a) add an entry,
(b) remove an entry, or
(c) vary an entry.

17ZC Consideration of young carers' needs assessments

A local authority that carry out a young carer's needs assessment must consider the assessment and decide—

(a) whether the young carer has needs for support in relation to the care which he or she provides or intends to provide;
(b) if so, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
(c) if they could be so satisfied, whether or not to provide any such services in relation to the young carer."

(2) In section 104 of the Children Act 1989 (regulations and orders)—

(a) in subsections (2) and (3A) (regulations within subsection (3B) or (3C) not subject to annulment but to be approved in draft) before "(3B)" insert " (3AA), ", and
(b) after subsection (3A) insert—

"(3AA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZB(9)."

97 Parent carers

(1) In the Children Act 1989, after section 17ZC (as inserted by section 96) insert—

"**17ZD Parent carers' needs assessments: England**

(1) A local authority in England must, if the conditions in subsections (3) and (4) are met, assess whether a parent carer within their area has needs for support and, if so, what those needs are.

(2) In this Part "parent carer" means a person aged 18 or over who provides or intends to provide care for a disabled child for whom the person has parental responsibility.

(3) The first condition is that—

(a) it appears to the authority that the parent carer may have needs for support, or
(b) the authority receive a request from the parent carer to assess the parent carer's needs for support.

(4) The second condition is that the local authority are satisfied that the disabled child cared for and the disabled child's family are persons for whom they may provide or arrange for the provision of services under section 17.

(5) An assessment under subsection (1) is referred to in this Part as a "parent carer's needs assessment".

(6) Subsection (1) does not apply in relation to a parent carer if the local authority have previously carried out a care-related assessment of the parent carer in relation to the same disabled child cared for.

(7) But subsection (1) does apply (and so a parent carer's needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the parent carer or the disabled child cared for have changed since the last care-related assessment.

(8) "Care-related assessment" means—
- (a) a parent carer's needs assessment;
- (b) an assessment under any of the following—
  - (i) section 1 of the Carers (Recognition and Services) Act 1995;
  - (ii) section 6 of the Carers and Disabled Children Act 2000;
  - (iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.

(9) A parent carer's needs assessment must include an assessment of whether it is appropriate for the parent carer to provide, or continue to provide, care for the disabled child, in the light of the parent carer's needs for support, other needs and wishes.

(10) A local authority in carrying out a parent carer's needs assessment must have regard to—
- (a) the well-being of the parent carer, and
- (b) the need to safeguard and promote the welfare of the disabled child cared for and any other child for whom the parent carer has parental responsibility.

(11) In subsection (10) "well-being" has the same meaning as in Part 1 of the Care Act 2014.

(12) A local authority, in carrying out a parent carer's needs assessment, must involve—
- (a) the parent carer,
- (b) any child for whom the parent carer has parental responsibility, and
- (c) any person who the parent carer requests the authority to involve.

(13) A local authority that have carried out a parent carer's needs assessment must give a written record of the assessment to—
- (a) the parent carer, and
- (b) any person to whom the parent carer requests the authority to give a copy.

(14) A local authority in England must take reasonable steps to identify the extent to which there are parent carers within their area who have needs for support.

17ZE Parent carers' needs assessments: supplementary

(1) This section applies for the purposes of section 17ZD.

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(2) The references in section 17ZD to providing care include a reference to providing practical or emotional support.

(3) Where a local authority—

(a) are required to carry out a parent carer's needs assessment, and

(b) are required or have decided to carry out some other assessment of the parent carer or of the disabled child cared for,

the local authority may combine the assessments.

(4) The Secretary of State may by regulations make further provision about carrying out a parent carer's needs assessment; the regulations may, in particular—

(a) specify matters to which a local authority is to have regard in carrying out a parent carer's needs assessment;

(b) specify matters which a local authority is to determine in carrying out a parent carer's needs assessment;

(c) make provision about the manner in which a parent carer's needs assessment is to be carried out;

(d) make provision about the form a parent carer's needs assessment is to take.

(5) The Secretary of State may by regulations amend the list in section 17ZD(8)(b) so as to—

(a) add an entry,

(b) remove an entry, or

(c) vary an entry.

17ZF Consideration of parent carers' needs assessments

A local authority that carry out a parent carer's needs assessment must consider the assessment and decide—

(a) whether the parent carer has needs for support in relation to the care which he or she provides or intends to provide;

(b) whether the disabled child cared for has needs for support;

(c) if paragraph (a) or (b) applies, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and

(d) if they could be so satisfied, whether or not to provide any such services in relation to the parent carer or the disabled child cared for.”

(2) In section 104 of the Children Act 1989 (regulations and orders)—

(a) in subsections (2) and (3A) (regulations within subsection (3B) or (3C) not subject to annulment but to be approved in draft) after “(3AA),” insert “ (3AB), ”, and

(b) after subsection (3AA) insert—

“(3AB) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZE(5).”

Staying put arrangements

98 Arrangements for living with former foster parents after reaching adulthood

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

(2) After section 23C (continuing functions in respect of former relevant children) insert—

"**23CZA Arrangements for certain former relevant children to continue to live with former foster parents**

(1) Each local authority in England have the duties provided for in subsection (3) in relation to a staying put arrangement.

(2) A "staying put arrangement" is an arrangement under which—
  (a) a person who is a former relevant child by virtue of section 23C(1)(b), and
  (b) a person (a "former foster parent") who was the former relevant child's local authority foster parent immediately before the former relevant child ceased to be looked after by the local authority,

  continue to live together after the former relevant child has ceased to be looked after.

(3) It is the duty of the local authority (in discharging the duties in section 23C(3) and by other means)—
  (a) to monitor the staying put arrangement, and
  (b) to provide advice, assistance and support to the former relevant child and the former foster parent with a view to maintaining the staying put arrangement.

(4) Support provided to the former foster parent under subsection (3)(b) must include financial support.

(5) Subsection (3)(b) does not apply if the local authority consider that the staying put arrangement is not consistent with the welfare of the former relevant child.

(6) The duties set out in subsection (3) subsist until the former relevant child reaches the age of 21."

(3) In Part 2 of Schedule 2 (local authority support for looked after children) after paragraph 19B (preparation for ceasing to be looked after) insert—

"**Preparation for ceasing to be looked after: staying put arrangements**

19BA (1) This paragraph applies in relation to an eligible child (within the meaning of paragraph 19B) who has been placed by a local authority in England with a local authority foster parent.

(2) When carrying out the assessment of the child's needs in accordance with paragraph 19B(4), the local authority must determine whether it would be appropriate to provide advice, assistance and support under this Act in order to facilitate a staying put arrangement, and with a view to

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maintaining such an arrangement, after the local authority cease to look after him or her.

(3) The local authority must provide advice, assistance and support under this Act in order to facilitate a staying put arrangement if—

(a) the local authority determine under sub-paragraph (2) that it would be appropriate to do so, and

(b) the eligible child and the local authority foster parent wish to make a staying put arrangement.

(4) In this paragraph, "staying put arrangement" has the meaning given by section 23CZA."

Commencement Information

I1 S. 98 in force at 13.5.2014 by S.I. 2014/889, **art. 5(e)**

Educational achievement of looked after children

99 Promotion of educational achievement of children looked after by local authorities

In the Children Act 1989, in section 22 after subsection (3A) (duty of local authorities to promote the educational achievement of looked after children) insert—

"(3B) A local authority in England must appoint at least one person for the purpose of discharging the duty imposed by virtue of subsection (3A).

(3C) A person appointed by a local authority under subsection (3B) must be an officer employed by that authority or another local authority in England."

Commencement Information

I2 S. 99 in force at 13.5.2014 by S.I. 2014/889, **art. 5(e)**

VALID FROM 01/09/2014

Pupils with medical conditions

100 Duty to support pupils with medical conditions

(1) The appropriate authority for a school to which this section applies must make arrangements for supporting pupils at the school with medical conditions.

(2) In meeting the duty in subsection (1) the appropriate authority must have regard to guidance issued by the Secretary of State.

(3) The duty in subsection (1) does not apply in relation to a pupil who is a young child for the purposes of Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England).

(4) This section applies to the following schools in England—

(a) a maintained school;

(b) an Academy school;

(c) an alternative provision Academy;

(d) a pupil referral unit.

(5) In this section—

"the appropriate authority for a school" means—

(a) in the case of a maintained school, the governing body,

(b) in the case of an Academy, the proprietor, and

(c) in the case of a pupil referral unit, the management committee;

"maintained school" means—

(a) a community, foundation or voluntary school, within the meaning of the School Standards and Framework Act 1998, or

(b) a community or foundation special school, within the meaning of that Act.

(6) The Education Act 1996 and this section are to be read as if this section were included in that Act.

Local authority functions: intervention

101 Local authority functions relating to children etc: intervention

(1) Section 497A of the Education Act 1996 (which confers power on the Secretary of State to secure the proper performance of local authority education functions, and is applied to social services functions relating to children by section 50 of the Children Act 2004 and to functions relating to childcare by section 15 of the Childcare Act 2006) is amended in accordance with subsection (2).

(2) After subsection (4A) insert—

"(4AA) So far as is appropriate in consequence of a direction given under subsection (4A), a reference (however expressed) in an enactment, instrument or other document to a local authority is to be read as a reference to the person by whom the function is exercisable.

(4AB) Subsection (4AC) applies if a direction given under subsection (4A) expires or is revoked without being replaced.

(4AC) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the local authority to which the direction was given."

(3) In section 15 of the Local Government Act 1999 (Secretary of State's power to secure compliance with requirements of Part 1 of that Act) after subsection (6) insert—

"(6A) So far as is appropriate in consequence of a direction given under subsection (6)(a), a reference (however expressed) in an enactment, instrument or other document to a best value authority is to be read as a reference to the person by whom the function is exercisable.

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(6B) Subsection (6C) applies if a direction given under subsection (6)(a) expires or is revoked without being replaced.

(6C) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the best value authority to which the direction was given."

Regulation of children's homes etc

102 Application of suspension etc powers to establishments and agencies in England

(1) In section 14A of the Care Standards Act 2000 (power of Welsh Ministers to suspend registration of person in respect of establishment or agency), in subsection (1)—
  (a) for "Welsh Ministers" substitute " registration authority ", and
  (b) omit "for which the Welsh Ministers are the registration authority".

(2) In subsection (2) of that section, for "Welsh Ministers give" substitute " registration authority gives ".

(3) In section 15(4A) of that Act (duty of Welsh Ministers to give notice of decision to grant application for cancellation or variation of suspension)—
  (a) for "Welsh Ministers decide" substitute " registration authority decides ",
  (b) for "they" substitute " it ", and
  (c) for "their" substitute " its ".

(4) In section 20B of that Act (urgent procedure for suspension or variation etc: Wales), in the heading omit ": Wales".

(5) In subsection (1) of that section—
  (a) in paragraph (a) omit "for which the Welsh Ministers are the registration authority", and
  (b) in paragraph (b)—
    (i) for "Welsh Ministers have" substitute " registration authority has ", and
    (ii) for "they act" substitute " it acts ".

(6) In subsection (2) of that section, for "Welsh Ministers" in both places substitute " registration authority ".

(7) In subsection (4)(b) of that section, for "Welsh Ministers'" substitute "registration authority's".

103 Objectives and standards for establishments and agencies in England

(1) In section 22 of the Care Standards Act 2000 (regulation of establishments and agencies), in subsection (1), for the words from "may in particular" to the end substitute "—
    (a) regulations made by the Secretary of State may in particular make any provision such as is mentioned in subsection (1A), (2), (7) or (8), and
    (b) regulations made by the Welsh Ministers may in particular make any provision such as is mentioned in subsection (2), (7) or (8)."

(2) In that section, after subsection (1) insert—

"(1A) Regulations made by the Secretary of State may prescribe objectives and standards which must be met in relation to an establishment or agency for which the CIECSS is the registration authority."

104 National minimum standards for establishments and agencies in England

In section 23 of the Care Standards Act 2000 (national minimum standards), after subsection (1) insert—

"(1A) The standards applicable to an establishment or agency for which the CIECSS is the registration authority may, in particular, explain or supplement requirements imposed in relation to that establishment or agency by regulations under section 22."

VALID FROM 01/04/2015

105 Disqualification from carrying on, or being employed in, a children's home

(1) Section 65 of the Children Act 1989 (person disqualified from fostering a child privately to be disqualified from carrying on etc children's home) is amended as follows.

(2) Before subsection (1) insert—

"(A1) A person ("P") who is disqualified (under section 68) from fostering a child privately must not carry on, or be otherwise concerned in the management of, or have any financial interest in, a children's home in England unless—

(a) P has, within the period of 28 days beginning with the day on which P became aware of P's disqualification, disclosed to the appropriate authority the fact that P is so disqualified, and

(b) P has obtained the appropriate authority's written consent.

(A2) A person ("E") must not employ a person ("P") who is so disqualified in a children's home in England unless—

(a) E has, within the period of 28 days beginning with the day on which E became aware of P's disqualification, disclosed to the appropriate authority the fact that P is so disqualified, and

(b) E has obtained the appropriate authority's written consent."

(3) In subsection (1), after "children's home" insert " in Wales ".

(4) In subsection (2), after "children's home" insert " in Wales ".

(5) In subsection (4), after "subsection" insert " (A1), (A2), ".

(6) In subsection (5), after "subsection" insert " (A2) or ".

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VALID FROM 01/09/2014

Free school lunches

106 Provision of free school lunches

(1) The Education Act 1996 is amended as follows.

(2) In section 512ZB (provision of free school lunches and milk at maintained schools)—

(a) in subsection (2)(a) after "subsection (4)" insert " or (4A) (or both) ",

(b) after subsection (4) insert—

"(4A) A person is within this subsection if the person—

(a) is a registered pupil at a maintained school or pupil referral unit in England, and

(b) is in reception, year 1, year 2 or any other prescribed year group at the school.

(4B) The Secretary of State may by order provide for the following to be treated as persons within subsection (4A)—

(a) registered pupils, or any description of registered pupils, at a maintained nursery school in England;

(b) children, or any description of children, who receive relevant funded early years education, or any description of such education, in England.

(4C) In subsection (4A)—

"maintained school" means—

(a) a community, foundation or voluntary school, or

(b) a community or foundation special school;

"reception" means a year group in which the majority of children will, in the school year, attain the age of 5;

"year 1" means a year group in which the majority of children will, in the school year, attain the age of 6;

"year 2" means a year group in which the majority of children will, in the school year, attain the age of 7;

"year group" means a group of children at a school the majority of whom will, in a particular school year, attain the same age.", and

(c) in subsection (5), after " "prescribed"" insert " , "relevant funded early years education" ".

(3) After section 512A insert—

"**512B Provision of school lunches: Academies**

(1) Academy arrangements in relation to an Academy school or an alternative provision Academy must include provision imposing obligations on the proprietor that are equivalent to the school lunches obligations.

(2) "The school lunches obligations" are the obligations imposed in relation to maintained schools and pupil referral units in England by—

(a) section 512(3) (provision of school lunches on request), and

(b) section 512ZB(1) (provision of free school lunches to eligible persons).

(3) Academy arrangements in relation to an Academy (other than a 16 to 19 Academy) that are entered into before the date on which section 106(3) of the Children and Families Act 2014 comes into force are to be treated as if they included the provision required by subsection (1), to the extent that they do not otherwise include such provision."

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Changes to legislation:
There are currently no known outstanding effects for the Children and Families Act 2014, PART 5.