
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third Commencement Order made by the Welsh Ministers under the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”), which brings specified provisions of the 2009 Act into force so far as relating to Wales.

Sections 48 to 52 of the 2009 Act make provision in relation to education and training for children and young people subject to detention in relevant youth accommodation.

This Order appoints 1 April 2011 as the day on which sections 49 and 50 of the 2009 Act are brought into force in part.

Section 49 of the 2009 Act reverses the effect of section 562 of the Education Act 1996 (“the 1996 Act”) for children and young people detained in relevant youth accommodation (so that functions of local authorities, the Welsh Ministers, and parents under the 1996 Act will generally apply towards such persons). Section 49 is brought into force for the purposes of the amendments to the 1996 Act contained in section 50 of the 2009 Act which are brought into force by this Order.

Section 50 of the 2009 Act inserts a number of sections into the 1996 Act. Certain of these provisions are brought into force as follows. Section 562A(3) defines a detained person for the purposes of the 1996 Act. Section 562B(1) to (3) requires a home authority (i.e. usually the local authority where a person ordinarily lives) to take steps to promote the fulfilment of a detained person’s learning potential. Section 562C(1) and (2) make provision in relation to statements of special educational needs during the time a child is detained. Section 562F(1) to (6) and (11) make provision about the sharing of education-related information relating to a detained person. Section 562I requires a local authority to have regard to Welsh Ministers’ guidance in performing their functions in relation to detained persons in youth accommodation and section 562J contains definitions.

This Order also appoints 1 April 2011 as the day on which section 51 of the 2009 Act is brought into force. Section 51 of the 2009 Act amends the Crime and Disorder Act 1998 so as to impose a duty on youth offending teams to notify certain local authorities when a person is detained in, transferred to, or released from, relevant youth accommodation.

This Order also appoints 1 April 2011 as the day on which section 52 of the 2009 Act is brought into force. Section 52 inserts a new section 312A into the 1996 Act which makes provision about statements of special educational needs on release from detention and also amends section 328(5) of the 1996 Act to require a local authority to review a statement on a child’s release from detention.