



# Children Act 2004

## 2004 CHAPTER 31

### PART 6

#### GENERAL

#### 64 Repeals

The enactments specified in Schedule 5 are repealed to the extent specified.

#### 65 Interpretation

(1) In this Act—

“the Assembly” means the National Assembly for Wales;

“child” means, subject to section 9, a person under the age of eighteen (and “children” is to be construed accordingly);

<sup>F1</sup> .....

<sup>F1</sup> .....

[<sup>F2</sup> “local authority” means—

(a) a local authority in England;

(b) a local authority in Wales;

“local authority in England” means—

(a) a county council in England;

(b) a metropolitan district council;

(c) a non-metropolitan district council for an area for which there is no county council;

(d) a London Borough council;

(e) the Common Council of the City of London (in their capacity as a local authority);

(f) the Council of the Isles of Scilly;

“local authority in Wales” means—

(a) a county council in Wales;

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- (b) a county borough council;]
- (2) This Act applies in relation to the Isles of Scilly subject to such modifications as may be specified by order made by the Secretary of State.
- (3) In this Act—
- (a) references to a prison include a young offender institution;
  - (b) references to a contracted out secure training centre, and to the contractor in relation to such a secure training centre, have the meanings given by section 15 of the Criminal Justice and Public Order Act 1994 (c. 33);
  - (c) references to a contracted out prison, and to the contractor in relation to such a prison, have the meanings given by section 84(4) of the Criminal Justice Act 1991 (c. 53).
  - [<sup>F3</sup>(d) references to a directly managed secure college and to a contracted-out secure college, and to the contractor in relation to a contracted-out secure college, have the meanings given by paragraph 27 of Schedule 10 to the Criminal Justice and Courts Act 2015.]
- (4) Where—
- (a) a contract under section 7 of the Criminal Justice and Public Order Act 1994 is for the time being in force in relation to part of a secure training centre, <sup>F4</sup>...
  - (b) a contract under section 84 of the Criminal Justice Act 1991 is for the time being in force in relation to part of a prison, [<sup>F5</sup>or]
  - [<sup>F6</sup>(c) a contract under paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015 is for the time being in force in relation to part of a secure college”, and]
- this Act has effect as if each part of the secure training centre [<sup>F7</sup>, prison or secure college] were a separate institution.

#### Textual Amendments

- F1** S. 65(1): definitions repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 4(2), 5(2), **Sch. 3 Pt. 2**
- F2** S. 65(1): definitions inserted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **arts. 1, 4(3)**
- F3** S. 65(3)(d) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 10 para. 36(2)**; S.I. 2015/778, art. 2(1)(d)
- F4** Word in s. 65(4)(a) omitted (20.3.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 10 para. 36(3)(a)**; S.I. 2015/778, art. 2(1)(d)
- F5** Word in s. 65(4)(b) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 10 para. 36(3)(b)**; S.I. 2015/778, art. 2(1)(d)
- F6** S. 65(4)(c) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 10 para. 36(3)(c)**; S.I. 2015/778, art. 2(1)(d)
- F7** Words in s. 65(4) substituted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 10 para. 36(3)(d)**; S.I. 2015/778, art. 2(1)(d)

## 66 Regulations and orders

- (1) Any power to make regulations or an order under this Act includes power—
- (a) to make different provision for different purposes;
  - (b) to make different provision for different cases or areas;

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- (c) to make incidental, supplementary, consequential or transitional provision or savings.
- (2) Any power to make regulations or an order under this Act, other than an order under section 42 or 43, is exercisable by statutory instrument.
- (3) The Secretary of State may not make a statutory instrument containing regulations under section 12 [F<sup>8</sup>, 12B(1)(b)] [F<sup>9</sup>, 16B (whether alone or with regulations under section 16F), 16E(3) ] or 45 unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) The Secretary of State may not make a statutory instrument containing [F<sup>10</sup>the first regulations under section 9A or] the first order under section 49 unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (5) A statutory instrument containing—
- (a) any regulations made by the Secretary of State under this Act [F<sup>11</sup>to which neither of subsections (3) and (4) applies],
  - (b) an order made by the Secretary of State under section 49 to which subsection (4) does not apply, or
  - (c) an order made by the Secretary of State under section 11(1)(d) or section 65(2),
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsection (5) does not apply to regulations made by the Secretary of State jointly with the Assembly under section 43(7).
- (7) [F<sup>12</sup>Any statutory instrument containing regulations made under section [F<sup>13</sup>25 or] 26 by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]
- (8) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.

#### Textual Amendments

- F8** Words in s. 66(3) inserted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [ss. 194\(7\)](#), 269; S.I. 2010/303, [art. 3](#), Sch. 2
- F9** Words in s. 66(3) inserted (19.3.2018) by [Children and Social Work Act 2017 \(c. 16\)](#), [ss. 29](#), 70(2); S.I. 2018/346, [reg. 3\(e\)](#)
- F10** Words in s. 66(4) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [ss. 195\(2\)\(a\)](#), 269; S.I. 2009/3317, [art. 2](#), Sch.
- F11** Words in s. 66(5)(a) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [ss. 195\(2\)\(b\)](#), 269; S.I. 2009/3317, [art. 2](#), Sch.
- F12** S. 66(7) repealed (E.W.) (1.4.2016) by [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), s. 56(2), [Sch. 4 para. 17](#); S.I. 2016/86, [art. 3](#)
- F13** Words in s. 66(7) inserted (E.W.) (6.4.2016) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), [ss. 163\(8\)](#), 199(2); S.I. 2016/412, [art. 2](#) (with [art. 4Sch. 12](#))

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## 67 Commencement

- (1) Part 1 comes into force on the day on which this Act is passed.
- (2) Part 2 comes into force in accordance with provision made by order by the Secretary of State.
- (3) Part 3 comes into force in accordance with provision made by order by the Assembly subject to subsections (4) and (5).
- (4) The Assembly must obtain the consent of the Secretary of State before making provision under subsection (3) in relation to section 25(4)(a) to (c) or 31(3)(a) to (c), (f) or (g).
- (5) In section 28, the following provisions come into force in accordance with provision made by order by the Secretary of State after consulting the Assembly—
  - (a) subsection (1)(d) to (h);
  - (b) subsection (2), so far as relating to the persons and bodies referred to in subsection (1)(d) to (h);
  - (c) subsection (5).
- (6) Part 4 comes into force in accordance with provision made by order by the Assembly with the consent of the Secretary of State.
- (7) In Part 5—
  - (a) section 44 so far as relating to England comes into force in accordance with provision made by order by the Secretary of State, and so far as relating to Wales in accordance with provision made by order by the Assembly;
  - (b) sections 45 to 47 come into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (c) section 48 and Schedule 4 so far as relating to England come into force in accordance with provision made by order by the Secretary of State, and so far as relating to Wales in accordance with provision made by order by the Assembly;
  - (d) section 49 comes into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (e) sections 50 to 57 so far as relating to England come into force in accordance with provision made by order by the Secretary of State, and so far as relating to Wales in accordance with provision made by order by the Assembly;
  - (f) section 58 comes into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (g) section 59 comes into force on the day on which this Act is passed;
  - (h) section 60 comes into force in accordance with provision made by order by the Secretary of State;
  - (i) section 61 comes into force in accordance with provision made by order by the Assembly;
  - (j) section 62 comes into force in accordance with provision made by order by the Lord Chancellor;
  - (k) section 63 comes into force on the day on which this Act is passed.
- (8) This Part comes into force on the day on which this Act is passed except that Schedule 5 comes into force in accordance with the commencement provisions set out in that Schedule.

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### **Subordinate Legislation Made**

**P1** S. 67 power partly exercised: different dates appointed for specified provisions by {S.I. 2005/394}, art. 2; different dates appointed for specified provisions by {S.I. 2005/700}, art. 2; 12.4.2005 appointed for specified provision by {S.I. 2005/847}, art. 2; 3.10.2005 appointed for specified provisions by {S.I. 2005/2298}, art. 2; 30.12.2005 appointed for specified provisions by {S.I. 2005/3363}, art. 2; 1.1.2006 appointed for specified provision by {S.I. 2005/3464}, art. 2; different dates appointed for specified provisions by {S.I. 2006/885}, art. 2; 1.4.2006 appointed for specified provisions by {S.I. 2006/927}, art. 2; different dates appointed for specified provisions by {S.I. 2006/870}, art. 2; 21.3.2008 appointed for specified provision by {S.I. 2008/752}, art. 2; 31.7.2008 appointed for specified provisions by {S.I. 2008/1904}, art. 2

## **68 Extent**

- (1) Part 1 extends to the whole of the United Kingdom (unless otherwise specifically provided).
- (2) Parts 2 to 4 extend to England and Wales only.
- (3) In Part 5—
  - (a) sections 44 to 62 extend to England and Wales only;
  - (b) section 63 extends to the whole of the United Kingdom.
- (4) In this Part—
  - (a) section 64 and Schedule 5 extend to England and Wales only; and
  - (b) the remaining provisions extend to the whole of the United Kingdom.

## **69 Short title**

This Act may be cited as the Children Act 2004.

**Changes to legislation:**

There are currently no known outstanding effects for the Children Act 2004, Part 6.