SCHEDULES

SCHEDULE 1

Section 8(2)

CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES: SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS

The 1989 Act

1 In section 17(5)(a) of the 1989 Act (facilitation of provision by others of services local authority provide under provisions of Part 3 of that Act)—

(a) for "the authority have power" substitute "it is a function of the authority "; and

(b) for "23" substitute "22A to 22C ".

Commencement Information

I1 Sch. 1 para. 1 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I2 Sch. 1 para. 1 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

2 (1) Section 59 of that Act (accommodation by voluntary organisations) is amended as follows.

(2) In subsection (1)(aa), for "an appropriate children's home" substitute "a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000 ".

(3) In subsection (1A) for "local authority" substitute "voluntary organisation ".

(4) In subsection (2) omit the words from "and" to the end.

(5) In subsection (3) omit the words from "and" to the end.

(6) After subsection (3) insert—

"(3A) Regulations under subsection (2) or (3) may in particular make provision which (with any necessary modifications) is similar to that which may be made under section 22C by virtue of any of paragraphs 12B, 12E and 12F of Schedule 2."

(7) For subsection (5) substitute—

"(5A) Regulations under subsection (4) may, in particular—

(a) apply with modifications any provision of section 25A or 25B;

(b) make provision which (with any necessary modifications) is similar to any provision which may be made under section 25A, 25B or 26."

Commencement Information

I3 Sch. 1 para. 2 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

I4 Sch. 1 para. 2(1)-(3) in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I5 Sch. 1 para. 2(4)-(7) in force at 15.11.2010 for E. by S.I. 2010/2714, **art. 2(a)**

3 (1) Section 105(1) of that Act (interpretation of certain expressions) is amended as follows.

(2) Omit the definition of "appropriate children's home".

(3) For the definition of "children's home" substitute—

""children's home" has the same meaning as it has for the purposes of the Care Standards Act 2000 (see section 1 of that Act);".

[F1](4) . . . . . .

Textual Amendments

F1 Sch. 1 para. 3(4) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (No. 413), regs. 2(1), **266**

Commencement Information

I6 Sch. 1 para. 3 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I7 Sch. 1 para. 3(1)-(3) in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

4 In Part 2 of Schedule 2 to that Act (children looked after by local authorities) for paragraphs 12 to 14 substitute—

"Regulations as to conditions under which child in care is allowed to live with parent, etc

12A Regulations under section 22C may, in particular, impose requirements on a local authority as to—

(a) the making of any decision by a local authority to allow a child in their care to live with any person falling within section 22C(3) (including requirements as to those who must be consulted before the decision is made and those who must be notified when it has been made);

(b) the supervision or medical examination of the child concerned;

(c) the removal of the child, in such circumstances as may be prescribed, from the care of the person with whom the child has been allowed to live;

(d) the records to be kept by local authorities.

Regulations as to placements of a kind specified in section 22C(6)(d)

12B Regulations under section 22C as to placements of the kind specified in section 22C(6)(d) may, in particular, make provision as to—

(a) the persons to be notified of any proposed arrangements;

(b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;

(c) the persons to be notified of any proposed changes in arrangements;

(d) the records to be kept by local authorities;

(e) the supervision by local authorities of any arrangements made.

Placements out of area

12C Regulations under section 22C may, in particular, impose requirements which a local authority must comply with—

(a) before a child looked after by them is provided with accommodation at a place outside the area of the authority; or

(b) if the child's welfare requires the immediate provision of such accommodation, within such period of the accommodation being provided as may be prescribed.

Avoidance of disruption in education

12D (1) Regulations under section 22C may, in particular, impose requirements which a local authority must comply with before making any decision concerning a child's placement if he is in the fourth key stage.

(2) A child is "in the fourth key stage" if he is a pupil in the fourth key stage for the purposes of Part 6 or 7 of the Education 2002 (see section 82 and 103 of that Act).

Regulations as to placing of children with local authority foster parents

12E Regulations under section 22C may, in particular, make provision—

(a) with regard to the welfare of children placed with local authority foster parents;

(b) as to the arrangements to be made by local authorities in connection with the health and education of such children;

(c) as to the records to be kept by local authorities;

(d) for securing that where possible the local authority foster parent with whom a child is to be placed is—

(i) of the same religious persuasion as the child; or

(ii) gives an undertaking that the child will be brought up in that religious persuasion;

(e) for securing the children placed with local authority foster parents, and the premises in which they are accommodated, will be supervised and inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it.

12F (1) Regulations under section 22C may, in particular, also make provision—

(a) for securing that a child is not placed with a local authority foster parent unless that person is for the time being approved as a local authority foster parent by such local authority as may be prescribed;

Changes to legislation: *There are currently no known outstanding effects for the Children and Young Persons Act 2008, SCHEDULE 1. (See end of Document for details)*

(b) establishing a procedure under which any person in respect of whom a qualifying determination has been made may apply to the appropriate national authority for a review of that determination by a panel constituted by that national authority.

(2) A determination is a qualifying determination if—

(a) it relates to the issue of whether a person should be approved, or should continue to be approved, as a local authority foster parent; and

(b) it is of a prescribed description.

(3) Regulations made by virtue of sub-paragraph (1)(b) may include provision as to—

(a) the duties and powers of a panel;

(b) the administration and procedures of a panel;

(c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);

(d) the payment of fees to members of a panel;

(e) the duties of any person in connection with a review conducted under the regulations;

(f) the monitoring of any such reviews.

(4) Regulations made by virtue of sub-paragraph (3)(e) may impose a duty to pay to the appropriate national authority such sum as that national authority may determine; but such a duty may not be imposed upon a person who has applied for a review of a qualifying determination.

(5) The appropriate national authority must secure that, taking one financial year with another, the aggregate of the sums which become payable to it under regulations made by virtue of sub-paragraph (4) does not exceed the cost to it of performing its independent review functions.

(6) The appropriate national authority may make an arrangement with an organisation under which independent review functions are performed by the organisation on the national authority's behalf.

(7) If the appropriate national authority makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by that national authority.

(8) The arrangement may include provision for payments to be made to the organisation by the appropriate national authority.

(9) Payments made by the appropriate national authority in accordance with such provision shall be taken into account in determining (for the purpose of sub-paragraph (5)) the cost to that national authority of performing its independent review functions.

(10) Where the Welsh Ministers are the appropriate national authority, sub-paragraphs (6) and (8) also apply as if references to an organisation included references to the Secretary of State.

(11) In this paragraph—

"financial year" means a period of twelve months ending with 31st March;

"independent review function" means a function conferred or imposed on a national authority by regulations made by virtue of sub-paragraph (1)(b);

"organisation" includes a public body and a private or voluntary organisation.

12G Regulations under section 22C may, in particular, also make provision as to the circumstances in which local authorities may make arrangements for duties imposed on them by the regulations to be discharged on their behalf."

Commencement Information

I8 Sch. 1 para. 4 in force at 1.9.2009 for E. by S.I. 2009/2273, **art. 2(2)(b)**

I9 Sch. 1 para. 4 in force at 26.4.2010 for W. by S.I. 2010/1329, **art. 2(b)**

5 In paragraph 21(5) of that Schedule (liability to contribute towards maintenance of looked after child) for "allowed by the authority (under section 23(5)) to live with" substitute "living with, under arrangements made by the authority in accordance with section 22C, ".

Commencement Information

I10 Sch. 1 para. 5 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I11 Sch. 1 para. 5 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

6 In paragraph 9 of Schedule 8 (accommodation of children during school holidays) in the second sentence of sub-paragraph (1) for "an appropriate children's home" substitute "a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000 ".

Commencement Information

I12 Sch. 1 para. 6 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I13 Sch. 1 para. 6 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

7 In paragraph 2(1) of Schedule 9A (exemption of certain establishments from Part 10A), in paragraph (a) for "an appropriate children's home" substitute "a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000 ".

Commencement Information

I14 Sch. 1 para. 7 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Criminal Justice Act 1991 (c. 53)

F2 8 . . . . . .

Textual Amendments

F2 Sch. 1 para. 8 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 56**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Commencement Information

I15 Sch. 1 para. 8 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Children (Scotland) Act 1995 (c. 36)

9 In section 26 of the Children (Scotland) Act 1995 (manner in which accommodation is to be provided) for subsection (2)(b)(i) substitute—

"(i) a local authority in England and Wales could place the child in a placement falling within section 22C(6)(c) of the Children Act 1989;".

Commencement Information

I16 Sch. 1 para. 9 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

10 In paragraph 5A(3) of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 (requirement in supervision order to live with local authority foster parent for specified period) for "23(2)(a)" substitute "22C ".

Commencement Information

I17 Sch. 1 para. 10 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Care Standards Act 2000 (c. 14)

11 In section 22 of the Care Standards Act 2000 (regulation of establishments and agencies), in subsection (2)(e), for "23(2)(a)" substitute "22C ">.

Commencement Information

I18 Sch. 1 para. 11 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

12 In section 31 of that Act (inspection of establishments and agencies by authorised persons), in subsection (3)(b), for "23(2)(a)" substitute "22C ".

Commencement Information

I19 Sch. 1 para. 12 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

13 In section 43(1) (local authority services: meaning of "relevant adoption functions" and "relevant fostering functions" for paragraph (b) substitute—

"(b) "relevant fostering functions" means functions under section 22C of the 1989 Act in connection with placements with local authority foster parents or regulations under paragraph 12E(a), (b), (d) or (e) or 12F."

Commencement Information

I20 Sch. 1 para. 13 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Adoption and Children Act 2002 (c. 38)

14 In Schedule 6 to the Adoption and Children Act 2002 (glossary giving certain expressions used in that Act the meaning given by the Children Act 1989 (c. 41)), in the entry relating to "local authority foster parent" for "23(3)" substitute "22C(12) ".

Commencement Information

I21 Sch. 1 para. 14 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Sexual Offences Act 2003 (c. 42)

15 In section 21 of the Sexual Offences Act 2003 (positions of trust) in subsection (3)(a) for "under section 23(2)" substitute "in accordance with section 22C(6) ".

Commencement Information

I22 Sch. 1 para. 15 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I23 Sch. 1 para. 15 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

16 In section 27 of that Act (family relationships) in subsection (5)(c) for sub-paragraph (i) substitute "—

(i) he is a person with whom the child has been placed under section 22C of the Children Act 1989 in a placement falling within subsection (6)(a) or (b) of that section (placement with local authority foster parent),

(ia) he is a person with whom the child has been placed under section 59(1)(a) of that Act (placement by voluntary organisation),".

Commencement Information

I24 Sch. 1 para. 16 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(e)**

I25 Sch. 1 para. 16 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

Children Act 2004 (c. 31)

17 In section 49(1)(a) of the Children Act 2004 (payments to local authority foster parents) for "23(2)(a)" substitute "22C ".

Commencement Information

I26 Sch. 1 para. 17 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I27 Sch. 1 para. 17 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

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

18 (1) Section 806 of the Income Tax (Trading and Other Income) Act 2005 (meaning of providing foster care) is amended as follows.

(2) In subsection (3)(a) for "23(2)(a)" substitute "22C ".

(3) In subsection (5)—

(a) after paragraph (c) omit "and"; and

(b) after paragraph (d) insert "; and

(e) an individual with whom the child is placed under a placement falling within section 22C(6)(d) of the Children Act 1989."

Commencement Information

I28 Sch. 1 para. 18 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I29 Sch. 1 para. 18 in force at 6.4.2016 for W. by S.I. 2016/452, **art. 2(b)**

Childcare Act 2006 (c. 21)

19 (1) Section 18 of the Childcare Act 2006 (meaning of childcare) is amended as follows.

(2) For subsection (5)(a)(i) substitute—

"(i) a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000,".

(3) In subsection (8)—

(a) in paragraph (a) omit " "appropriate children's home","; and

(b) in paragraph (b) after " "care home"," insert " "children's home", ".

Commencement Information

I30 Sch. 1 para. 19 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

I31 Sch. 1 para. 19 in force at 1.12.2017 for W. by S.I. 2017/948, **art. 2(a)**

Safeguarding Vulnerable Groups Act 2006 (c. 47)

20 In section 53(7)(a) of the Safeguarding Vulnerable Groups Act 2006 (meaning of foster parent) omit "of section 23(2)(a)".

Commencement Information

I32 Sch. 1 para. 20 in force at 1.4.2011 for E. by S.I. 2010/2981, **art. 4(a)**

Criminal Justice and Immigration Act 2008

[F3]21 . . . . . .

Textual Amendments

F3 Sch. 1 para. 21 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Changes to legislation:
There are currently no known outstanding effects for the Children and Young Persons Act 2008, SCHEDULE 1.