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STATUTORY INSTRUMENTS

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**2009 No. 268 (C. 11)**

**CHILDREN AND YOUNG  
PERSONS, ENGLAND AND WALES**

**The Children and Young Persons Act 2008  
(Commencement No. 1 and Saving Provision) Order 2009**

*Made - - - - 11th February 2009*

The Secretary of State for Children, Schools and Families makes the following Order in exercise of the powers conferred by section 44(4) and (10) of the Children and Young Persons Act 2008<sup>(1)</sup>. In accordance with section 44(8) of that Act<sup>(2)</sup>, he has consulted the Welsh Ministers.

**Citation and interpretation**

1.—(1) This Order may be cited as the Children and Young Persons Act 2008 (Commencement No. 1 and Saving Provision) Order 2009.

(2) In this Order, “the Act” means the Children and Young Persons Act 2008.

**Appointed day for provisions coming into force in relation to England and Wales**

2. 1st April 2009 is the appointed day for the coming into force of sections 31 (supply of information concerning the death of children to Local Safeguarding Children Boards) and 32 (power of Registrar General to supply information to national authorities) of the Act.

**Appointed day for provisions coming into force in relation to England**

3.—(1) 12th February 2009 is the appointed day for the coming into force of the following provisions of the Act in relation to England—

- (a) section 6(2) (piloting of arrangements under Part 1),
- (b) section 8(3) (provision of accommodation and maintenance for children who are looked after by a local authority) and Schedule 2 (transitory modifications of Schedule 2 to the Children Act 1989)<sup>(3)</sup>,

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(1) 2008 c. 23.

(2) Section 44(8) of the Children and Young Persons Act 2008 requires the Secretary of State to consult the Welsh Ministers before making an order bringing section 31 or 32 of that Act into force.

(3) 1989 c. 41.

- (c) section 20(3) (designated member of staff at school for pupils looked after by a local authority),
  - (d) section 21(2) (entitlement to payment in respect of higher education) in so far as it inserts subsection (5B) into section 23C of the Children Act 1989<sup>(4)</sup>,
  - (e) section 33 (research etc. into matters connected with certain statutory functions),
  - (f) the following subsections of section 34 (independent review of determinations relating to adoption)—
    - (i) in so far as it relates to the subsections specified in sub-paragraphs (ii) and (iii) of this sub-paragraph, subsection (1),
    - (ii) subsections (2) and (3), and
    - (iii) in so far as it inserts subsection (3A) into section 12 of the Adoption and Children Act 2002<sup>(5)</sup>, subsection (4), and
  - (g) section 35 (extension of period allowed for making regulations under section 45 or 46 of the Children Act 2004<sup>(6)</sup>).
- (2) 1st April 2009 is the appointed day for the coming into force of the following provisions of the Act in relation to England—
- (a) in so far as it is not brought into force by paragraph (1)(f) of this article, section 34, and
  - (b) section 42 and Schedule 4 (repeals) in so far as they relate to the repeals relating to section 12 of the Adoption and Children Act 2002.
- (3) 6th April 2009 is the appointed day for the coming into force of the following provisions of the Act in relation to England—
- (a) section 30 (removal of restriction on hearing of application for discharge of emergency protection order), and
  - (b) section 42 and Schedule 4 (repeals) in so far as they relate to the repeal of section 45(9) of the Children Act 1989.

### **Saving provision**

**4.** The Independent Review of Determinations (Adoption) Regulations 2005<sup>(7)</sup> shall continue to have effect despite the amendments made by section 34 of the Act.

11th February 2009

*Delyth Morgan*  
Parliamentary Under Secretary of State  
Department for Children, Schools and Families

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(4) Section 23C of the Children Act 1989 was inserted by section 2 of the Children (Leaving Care) Act 2000 (c. 35).  
(5) 2002 c. 38.  
(6) 2004 c. 31.  
(7) S.I. 2005/3332.

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## EXPLANATORY NOTE

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

This Order is the first Commencement Order made by the Secretary of State for Children, Schools and Families under the Children and Young Persons Act 2008 (“the Act”).

Article 2 of the Order brings into force on 1st April 2009 sections 31 and 32 of the Act. These sections make provision for the supply of information concerning the death of children to Local Safeguarding Children Boards and for the power of the Registrar General to supply information to national authorities. These sections extend to, and are brought into force in respect of both, England and Wales.

Article 3(1) of the Order brings into force (in relation to England) on 12th February 2009 the following provisions of the Act: sections 6(2), 8(3) and Schedule 2, 20(3), 21(2) in so far as it inserts subsection (5B) into section 23C of the Children Act 1989, 33, 34(1) to (4) (partially) and 35. Section 6(2) of the Act makes provision for an order bringing section 1 (power to enter into arrangements for discharge of care functions) into force to do so by reference to particular local authorities or local authorities of a particular description. Section 8(3) of, and Schedule 2 to, the Act make transitory modifications of Schedule 2 to the Children Act 1989. Section 20(3) provides for the appropriate national authority to make regulations requiring the governing body of a maintained school to ensure that the designated person (the member of staff designated by the governing body as having responsibility for promoting the educational achievement of pupils at a school who are looked after by a local authority) has the qualifications or experience, or both, prescribed by the regulations. Section 21(2) amends section 23C of the Children Act 1989; section 23C(5B) provides for the appropriate national authority to make regulations in relation to entitlements to payment in respect of higher education. Section 33 of the Act makes provision in relation to research and returns of information under the Children Act 1989. Section 34 amends section 12 of the Adoption and Children Act 2002 which makes provision for the independent review of determinations relating to adoption. Section 35 of the Act extends the period allowed for the making of regulations under section 45 or 46 of the Children Act 2004.

Article 3(2) brings fully into force (in relation to England) on 1st April 2009 section 34 of the Act and related repeals in Schedule 4. Article 4 of the Order makes a saving provision in respect of regulations made under section 12 of the Adoption and Children Act 2002.

Article 3(3) brings into force (in relation to England) on 6th April 2009 section 30 of the Act and a related repeal in Schedule 4. Section 30 removes a restriction on the hearing of applications for discharge of emergency protection orders.