



Children Act 2004

2004 CHAPTER 31

PART 5

MISCELLANEOUS

Private fostering

44 Amendments to notification scheme

- (1) Section 67 of the Children Act 1989 (c. 41) (welfare of privately fostered children) is amended as specified in subsections (2) to (6).
- (2) In subsection (1)—
 - (a) after “who are” insert “ or are proposed to be ”;
 - (b) after “is being” insert “ or will be ”;
 - (c) for “caring for” substitute “ concerned with ”.
- (3) After subsection (2) insert—

“(2A) Regulations under subsection (2)(b) may impose requirements as to the action to be taken by a local authority for the purposes of discharging their duty under subsection (1) where they have received notification of a proposal that a child be privately fostered.”
- (4) In subsection (3) for “to visit privately fostered children” substitute “ for the purpose ”.
- (5) In subsection (5)—
 - (a) after “child who is” insert “ or is proposed to be ”;
 - (b) after “is being” insert “ or will be ”.
- (6) After subsection (5) insert—

“(6) The Secretary of State may make regulations requiring a local authority to monitor the way in which the authority discharge their functions under this

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Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

Part (and the regulations may in particular require the authority to appoint an officer for that purpose).”

(7) In Schedule 8 to that Act (privately fostered children) after paragraph 7 insert—

“7A Every local authority must promote public awareness in their area of requirements as to notification for which provision is made under paragraph 7.”

(8) The reference to that Act in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) is to be treated as referring to that Act as amended by this section.

Commencement Information

- II** S. 44 wholly in force at 1.4.2006; s. 44 not in force at Royal Assent see s. 67(7); s. 44 in force for E. for certain purposes at 1.4.2005 and in force at 1.7.2005 in so far as not yet in force by [S.I. 2005/394](#), [art. 2\(2\)\(3\)](#); s. 44 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

45 Power to establish registration scheme in England

- (1) The Secretary of State may by regulations require any person who fosters a child privately in the area of a [^{F1}local authority] in England to be registered for private fostering by that authority in accordance with the regulations.
- (2) Regulations under this section may make supplementary provision relating to the registration of persons for private fostering, including provision as to—
- (a) how a person applies for registration and the procedure to be followed in considering an application;
 - (b) the requirements to be satisfied before a person may be registered;
 - (c) the circumstances in which a person is disqualified from being registered;
 - (d) the circumstances in which an application for registration may or must be granted or refused;
 - (e) the payment of a fee on the making or granting of an application for registration;
 - (f) the imposition of conditions on registration and the variation or cancellation of such conditions;
 - (g) the circumstances in which a person’s registration may be, or be regarded as, cancelled;
 - (h) the making of appeals against any determination of a [^{F1}local authority] in England in relation to a person’s registration;
 - (i) temporary registration, or circumstances in which a person may be regarded as registered;
 - (j) requirements to be complied with by a [^{F1}local authority] in England or a person registered under the regulations.
- (3) The provision which may be made under subsection (2)(a) includes provision that any person who, in an application for registration under the regulations, knowingly makes a statement which is false or misleading in a material particular is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

- (4) The requirements for which provision may be made under subsection (2)(b) include requirements relating to—
- (a) the suitability of the applicant to foster children privately;
 - (b) the suitability of the premises in which it is proposed to foster children privately (including their suitability by reference to any other person living there).
- (5) The provision which may be made under subsection (2)(c) includes provision that a person may be disqualified where—
- (a) an order of a kind specified in the regulations has been made at any time with respect to him;
 - (b) an order of a kind so specified has been made at any time with respect to any child who has been in his care;
 - (c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;
 - (d) he has been convicted of a criminal offence of a kind so specified, or a probation order has been made in respect of him for any such offence or he has been discharged absolutely or conditionally for any such offence;
 - (e) a prohibition has been imposed on him under any specified enactment;
 - (f) his rights and powers with respect to a child have at any time been vested in a specified authority under a specified enactment;
 - (g) he lives in the same household as a person who is himself disqualified from being registered or in a household in which such a person is employed.
- (6) The provision which may be made under subsection (2)(c) also includes provision for a [^{F1}local authority] in England to determine whether a person is or is not to be disqualified.
- (7) The conditions for which provision may be made under subsection (2)(f) include conditions relating to—
- (a) the maintenance of premises in which children are, or are proposed to be, privately fostered;
 - (b) any other persons living at such premises.
- (8) The provision which may be made under subsection (2)(j) includes—
- (a) a requirement that a person registered under the regulations obtain the consent of the [^{F1}local authority] in England by whom he is registered before privately fostering a child;
 - (b) provision relating to the giving of such consent (including provision as to the circumstances in which, or conditions subject to which, it may or must be given).
- (9) The provision which may be made under subsection (2)(j) also includes—
- (a) a requirement for a [^{F1}local authority] in England to undertake annual inspections in relation to persons registered under the regulations (whether in fact privately fostering children or not); and
 - (b) provision for the payment of a fee by registered persons in respect of such inspections.
- (10) Regulations under this section may—

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- (a) authorise a [^{F1}local authority] in England to issue a notice to any person whom they believe to be fostering a child privately in their area without being registered in accordance with the regulations; and
 - (b) provide that a person who, without reasonable excuse, fosters a child privately without being registered in accordance with the regulations while such a notice is issued in respect of him is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) Regulations under this section may provide that a person registered under the regulations who without reasonable excuse contravenes or otherwise fails to comply with any requirement imposed on him in the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) Regulations under this section may provide that a person who fosters a child privately while he is disqualified from being registered is guilty of an offence unless—
- (a) he is disqualified by virtue of the fact that he lives in the same household as a person who is himself disqualified from being registered or in a household in which such a person is employed; and
 - (b) he did not know, and had no reasonable grounds for believing, that that person was so disqualified.
- (13) Where regulations under this section make provision under subsection (12), they must provide that a person who is guilty of the offence referred to in that subsection is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale, or
 - (b) a term of imprisonment not exceeding 51 weeks (or, in the case of an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), not exceeding six months), or
 - (c) both.
- (14) Regulations under this section may—
- (a) make consequential amendments (including repeals) to sections 67(2) to (6) and 68 to 70 of, and paragraphs 6 to 9 of Schedule 8 to, the Children Act 1989 (c. 41);
 - (b) amend Schedule 1 to the Local Authority Social Services Act 1970 (c. 42) (social services functions) as to add functions of a [^{F1}local authority] in England under this section to the functions listed in that Schedule.
- (15) Nothing in this section affects the scope of section 66(1).
- (16) For the purposes of this section references to a person fostering a child privately have the same meaning as in the Children Act 1989.

Textual Amendments

F1 Words in s. 45 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), [Sch. 2 para. 55\(6\)](#)

Status: Point in time view as at 28/04/2022.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

46 Power to establish registration scheme in Wales

- (1) The Assembly may by regulations require any person who fosters a child privately in the area of a [^{F2}local authority] in Wales to be registered for private fostering by that authority in accordance with the regulations.
- (2) Subsections (2) to (15) of section 45 apply in relation to regulations under this section as they apply in relation to regulations under that section with the substitution for references to a [^{F2}local authority] in England of references to a [^{F2}local authority] in Wales.
- (3) Subsection (16) of that section applies for the purposes of this section.

Textual Amendments

- F2** Words in s. 46 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 55(6)**

47 Expiry of powers in sections 45 and 46

- (1) If no regulations have been made under section 45 by the relevant time, that section shall (other than for the purposes of section 46(2) and (3)) cease to have effect at that time.
- (2) If no regulations have been made under section 46 by the relevant time, that section shall cease to have effect at that time.
- (3) In this section, the relevant time is the end of the period of [^{F3}seven] years beginning with the day on which this Act is passed.

Textual Amendments

- F3** Word in s. 47(3) substituted (12.2.2009 for E. and 6.4.2009 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 35, 44(3)-(5)**; [S.I. 2009/268](#), **art. 3**; [S.I. 2009/728](#), **art. 2**

Child minding and day care

48 Child minding and day care

Schedule 4 (which makes provision amending Part 10A of the Children Act 1989 (c. 41) in relation to child minding and day care) has effect.

Commencement Information

- I2** S. 48 not in force at Royal Assent see s. 67(7); s. 48 in force for certain purposes for E. at 1.3.2005 by [S.I. 2005/394](#), **art. 2(1)**; s. 48 in force for E. in so far as not already in force at 3.10.2005 by [S.I. 2005/2298](#), **art. 2(1)** (subject to [art. 2\(2\)](#)); s. 48 partly in force for W. at 1.4.2006 by [S.I. 2006/885](#), **art. 2(2)**

Status: Point in time view as at 28/04/2022.

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Local authority services

49 Payments to foster parents

- (1) The appropriate person may by order make provision as to the payments to be made—
- (a) by a [^{F4}local authority] in England or Wales or a person exercising functions on its behalf to a local authority foster parent with whom any child is placed by that authority or person under section [^{F5}22C] of the Children Act 1989 [^{F6} or section 81 of the Social Services and Well-being (Wales) Act 2014];
 - (b) by a voluntary organisation to any person with whom any child is placed by that organisation under section 59(1)(a) of [^{F7}the Children Act 1989].
- (2) In subsection (1)—
- “appropriate person” means—
- (a) the Secretary of State, in relation to a [^{F4}local authority] in England;
 - (b) the Assembly, in relation to a [^{F4}local authority] in Wales;
- ^{F8} ...
- [^{F9}“local authority foster parent” has the same meaning as in section 105(1) of the Children Act 1989;
- “voluntary organisation” has the same meaning as in the Children Act 1989.]
- (3) In section 23(2)(a) of the Children Act 1989, at the end insert . “ (subject to section 49 of the Children Act 2004) ”
- (4) In section 59(1)(a) of that Act, at the end insert “ (subject to section 49 of the Children Act 2004) ” .

Textual Amendments

- F4** Words in s. 49(1)(2) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , arts. 1 , 5(1) , **Sch. 2 para. 55(7)**
- F5** Word in s. 49(1)(a) substituted (1.4.2011 for E. and 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#) , ss. 8(2) , 44 , **Sch. 1 para. 17** ; S.I. 2010/2981 , **art. 4(a)** ; S.I. 2016/452, art. 2(b)
- F6** Words in s. 49(1)(a) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , **219(a)**
- F7** Words in s. 49(1)(b) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , **219(b)**
- F8** Words in s. 49(2) 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) , **219(c)**
- F9** Words in s. 49(2) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , **219(d)**

50 Intervention [^{F10} – England]

- [^{F11}(1) Section 497A of the Education Act 1996 (power to secure proper performance of a local authority's education functions) applies in relation to the functions of a local authority [^{F12}in England] which are specified in subsection (2) as it applies in relation to a local authority's education functions.
- (1A) In subsection (1) “ education functions ” has the meaning given by section 579(1) of the Education Act 1996.]

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- (2) [^{F13}The functions of a local authority are—
- (a) functions conferred on or exercisable by the authority which are social services functions, so far as those functions relate to children;
 - (b) the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph (a)); and
 - (c) the functions conferred on the authority under sections 10, 12 [^{F14}, 12C, 12D and 17A] above (in the case of a [^{F15}local authority] in England) ^{F16}...
- (3) In subsection (2)(a) “social services functions” has the same meaning as in the the Local Authority Social Services Act 1970 (c. 42).
- (4) Sections 497AA and 497B of the Education Act 1996 apply accordingly where powers under section 497A of that Act are exercised in relation to any of the [^{F17}functions of a local authority which are specified in subsection (2)].
- (5) ^{F18}.....
- (6) In subsection (5) of section 497A of that Act, the reference to functions to which that section applies includes (for all purposes) [^{F19}the functions of a local authority which are specified in subsection (2)].
- [^{F20}(7) If any functions of a local authority in England which are specified in subsection (2) are exercisable by a combined authority by virtue of section 105 of the Local Democracy, Economic Development and Construction Act 2009—
- (a) a reference in this section to a local authority includes a reference to the combined authority, and
 - (b) a reference in this section to functions specified in subsection (2) is, in relation to the combined authority, to be read as a reference to those functions so far as exercisable by the combined authority.]

Textual Amendments

- F10** Word in s. 50 heading inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 7\(2\)\(c\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F11** S. 50(1)(1A) substituted (5.5.2010) for s. 50(1) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), arts. 1, 5(1), [Sch. 2 para. 55\(8\)\(a\)](#)
- F12** Words in s. 50(1) inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 7\(2\)\(a\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F13** Words in s. 50(2) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), arts. 1, 5(1), [Sch. 2 para. 55\(8\)\(b\)\(i\)](#)
- F14** Words in s. 50(2) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 194\(6\)](#), 269; S.I. 2010/303, [art. 3](#), Sch. 2
- F15** Words in s. 50(2)(c) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), arts. 1, 5(1), [Sch. 2 para. 55\(8\)\(b\)\(ii\)](#)
- F16** Words in s. 50(2)(c) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 7\(2\)\(b\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F17** Words in s. 50(4) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010](#) (S.I. 2010/1158), arts. 1, 5(1), [Sch. 2 para. 55\(8\)\(c\)](#)

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- F18** S. 50(5) 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, 5(1)(2), Sch. 2 para. 55(8)(d), **Sch. 3 Pt. 2**
- F19** Words in s. 50(6) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 55(8)(e)**
- F20** S. 50(7) inserted (31.10.2017) by [Children and Social Work Act 2017 \(c. 16\)](#), **ss. 33(1), 70(2)**; S.I. 2017/918, reg. 2(c)

Commencement Information

- I3** S. 50 wholly in force at 1.10.2006; s. 50 not in force at Royal Assent see s. 67(7); s. 50 in force for E. at 1.3.2005 by [S.I. 2005/394](#), **art. 2(1)**; s. 50 in force for W. at 1.10.2006 by [S.I. 2006/885](#), **art. 2(4)**

[^{F21}50A Intervention – Wales

- (1) Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) applies in relation to the functions of a local authority in Wales which are specified in subsection (2) as it applies in relation to a local authority's education functions but as if the only relevant ground for intervention were ground 3 in section 21 of that Act.
- (2) The functions of a local authority are—
- ^{F22}(a)
- ^{F22}(b)
- (c) the functions conferred on the authority under sections 25 ^{F23} ... and 29 above.
- (3) In the application of Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 by virtue of this section, section 27 of that Act (power to direct exercise of other education functions) has effect as if the reference to education functions included (for all purposes) the functions of the local authority which are specified in subsection (2).
- (4) In this section—
- “ education functions ” has the meaning given by section 579(1) of the Education Act 1996;]
- ^{F24} ...

Textual Amendments

- F21** S. 50A inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 7(3)**; S.I. 2014/178, art. 2(f) (with art. 3)
- F22** S. 50A(2)(a)(b) 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), **220(a)**
- F23** Words in s. 50A(2)(c) repealed (1.4.2016) by [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), s. 56(2), **Sch. 4 para. 16**; S.I. 2016/86, art. 3
- F24** Words in s. 50A(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), **220(b)**

51 Inspection of local education authorities

In section 38 of the Education Act 1997 (c. 44) (inspection of LEAs), for subsection (2) substitute—

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- “(2) An inspection of a local education authority in England under this section shall consist of a review of the way in which the authority are performing any function conferred on them in their capacity as a local education authority, other than a function falling within the remit of the Adult Learning Inspectorate under section 53 of the Learning and Skills Act 2000 (c. 21).
- (2A) An inspection of a local education authority in Wales under this section shall consist of a review of the way in which the authority are performing—
- (a) any function conferred on them in their capacity as a local education authority; and
 - (b) the functions conferred on them under sections 25 and 26 so far as relating to education, training or youth support services (within the meaning of section 123 of the Learning and Skills Act 2000).”

Commencement Information

- I4** S. 51 wholly in force at 31.7.2008; s. 51 not in force at Royal Assent see s. 67(7); s. 51 in force for E. at 1.4.2005 by [S.I. 2005/394](#), [art. 2\(2\)](#); s. 51 in force for W. at 31.7.2008 by [S.I. 2008/1904](#), [art. 2](#)

52 Duty of local authorities to promote educational achievement

In section 22 of the Children Act 1989 (c. 41) (general duty of local authority in relation to children looked after by them), after subsection (3) insert—

- “(3A) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child’s educational achievement.”

Commencement Information

- I5** S. 52 wholly in force at 1.10.2006; s. 52 not in force at Royal Assent see s. 67(7); s. 52 in force for E. at 1.7.2005 by [S.I. 2005/394](#), [art. 2\(3\)](#); s. 52 in force for W. at 1.10.2006 by [S.I. 2006/885](#), [art. 2\(4\)](#)

53 Ascertaining children’s wishes

- (1) In section 17 of the Children Act 1989 (provision of services to children), after subsection (4) insert—

“(4A) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare—

- (a) ascertain the child’s wishes and feelings regarding the provision of those services; and
 - (b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.”
- (2) In section 20 of that Act (provision of accommodation for children: general), in subsection (6)(a) and (b), after “wishes” insert “ and feelings ”.

Status: Point in time view as at 28/04/2022.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

- (3) In section 47 of that Act (local authority’s duty to investigate), after subsection (5) insert—

“(5A) For the purposes of making a determination under this section as to the action to be taken with respect to a child, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare—

- (a) ascertain the child’s wishes and feelings regarding the action to be taken with respect to him; and
- (b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.”

Commencement Information

- I6** S. 53 wholly in force at 1.4.2006; s. 53 not in force at Royal Assent see s. 67(7); s. 53 in force for E. at 1.3.2005 by [S.I. 2005/394](#), [art. 2\(1\)](#); s. 53 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

54 Information about individual children

In section 83 of the Children Act 1989 (c. 41) (research and returns of information), after subsection (4) insert—

“(4A) Particulars required to be transmitted under subsection (3) or (4) may include particulars relating to and identifying individual children.”

Commencement Information

- I7** S. 54 wholly in force at 1.4.2006; s. 54 not in force at Royal Assent see s. 67(7); s. 54 in force for E. at 1.3.2005 by [S.I. 2005/394](#), [art. 2\(1\)](#); s. 54 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

55 Social services committees

- (1) Sections 2 to 5 of the Local Authority Social Services Act 1970 (c. 42) (social services committees) shall cease to have effect.
- (2) In Schedule 1 to that Act (enactments conferring functions assigned to social services committees), for the heading substitute “SOCIAL SERVICES FUNCTIONS”.
- (3) In section 63(8) of the Health Services and Public Health Act 1968 (c. 46) (instruction), in paragraph (a) of the definition of “relevant enactments”, for the words from “for the time being” to “section 2” substitute “are social services functions within the meaning”.
- (4) In Schedule 1 to the Local Government and Housing Act 1989 (c. 42) (political balance on committees), in paragraph 4(1), in paragraph (a) of the definition of “ordinary committee”, for the words from “the authority's” to “any other committee” substitute “any committee”.
- (5) In section 102 of the Local Government Act 2000 (c. 22) (social services functions)—
 - (a) omit subsection (1);

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- (b) in subsection (2), for “that Act” substitute “ the Local Authority Social Services Act 1970 ”.

Commencement Information

- I8** S. 55 wholly in force at 1.4.2006; s. 55 not in force at Royal Assent see s. 67(7); s. 55 in force for E. at 1.4.2005 by [S.I. 2005/394](#), [art. 2\(2\)](#); s. 55 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

^{F25}56 Social services functions

In Schedule 1 to the Local Authority Social Services Act 1970 (c. 42) (functions which are social services functions), at the end insert—

“Children Act 2004
Sections 13 to 16 and 31 to 34

Functions relating to Local Safeguarding
Children Boards.”

Textual Amendments

- F25** S. 56 partly in force; s. 56 not in force at Royal Assent see s. 67(7); s. 56 in force for E. for certain purposes at 1.4.2006 by [S.I. 2006/927](#), [art. 2\(b\)](#); s. 56 in force for W. at 1.10.2006 by [S.I. 2006/885](#), [art. 2\(4\)](#)

Other provisions

57 Fees payable to adoption review panel members

In section 12 of the Adoption and Children Act 2002 (c. 38) (independent review of determinations), in subsection (3)(d) (power to make provision as to the payment of expenses of members of a panel) for “expenses of” substitute “ fees to ”.

Commencement Information

- I9** S. 57 wholly in force at 30.12.2005; s. 57 not in force at Royal Assent see s. 67(7); s. 57 in force for E. at 1.3.2005 by [S.I. 2005/394](#), [art. 2\(1\)](#); s. 57 in force for W. at 30.12.2005 by [S.I. 2005/3363](#), [art. 2](#)

58 [^{F26}Reasonable punishment: England]

- (1) In relation to any offence specified in subsection (2), battery of a child [^{F27}taking place in England] cannot be justified on the ground that it constituted reasonable punishment.
- (2) The offences referred to in subsection (1) are—
- an offence under section 18 or 20 of the Offences against the Person Act 1861 (c. 100) (wounding and causing grievous bodily harm);
 - an offence under section 47 of that Act (assault occasioning actual bodily harm);

Status: Point in time view as at 28/04/2022.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

- (c) an offence under section 1 of the Children and Young Persons Act 1933 (c. 12) (cruelty to persons under 16).
- (3) Battery of a child [^{F28}taking place in England] causing actual bodily harm to the child cannot be justified in any civil proceedings on the ground that it constituted reasonable punishment.
- (4) For the purposes of subsection (3) “actual bodily harm” has the same meaning as it has for the purposes of section 47 of the Offences against the Person Act 1861.
- (5) In section 1 of the Children and Young Persons Act 1933, omit subsection (7).

Textual Amendments

- F26** S. 58 heading substituted (21.3.2022) by Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 (anaw 3), ss. 1(5)(c), 5(2)
- F27** Words in s. 58(1) inserted (21.3.2022) by Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 (anaw 3), ss. 1(5)(a), 5(2)
- F28** Words in s. 58(3) inserted (21.3.2022) by Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020 (anaw 3), ss. 1(5)(b), 5(2)

59 Power to give financial assistance

- (1) Section 14 of the Education Act 2002 (c. 32) (power of Secretary of State and Assembly to give financial assistance for purposes related to education or childcare) is amended as specified in subsections (2) to (4).
- (2) In subsection (2) of that section (purposes for which assistance may be given), at the end insert—
- “(j) the promotion of the welfare of children and their parents;
(k) the provision of support for parenting (including support for prospective parents).”
- (3) After that subsection insert—
- “(2A) In subsection (2)(j), “children” means persons under the age of twenty.”
- (4) In the heading to that section, for “childcare” substitute “ children etc ”.
- (5) In the heading to Part 2 of that Act, for “childcare” substitute “ children etc ”.

60 Child safety orders

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 8(1)(a) (power to make parenting order where a child safety order is made), at the end insert “or the court determines on an application under section 12(6) below that a child has failed to comply with any requirement included in such an order”.
- (3) In section 11(4) (maximum period permitted for child safety orders), for the words from “three months” to the end substitute “ twelve months ”.
- (4) In section 12, omit subsections (6)(a) and (7) (power to make care order on breach of child safety order).

Status: Point in time view as at 28/04/2022.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

61 Children’s Commissioner for Wales: powers of entry

In the Care Standards Act 2000 (c. 14), in section 76 (further functions of Children’s Commissioner for Wales), at the end insert—

- “(8) The Commissioner or a person authorised by him may for the purposes of any function of the Commissioner under section 72B or 73 or subsection (4) of this section at any reasonable time—
- (a) enter any premises, other than a private dwelling, for the purposes of interviewing any child accommodated or cared for there; and
 - (b) if the child consents, interview the child in private.”

Commencement Information

I10 S. 61 not in force at Royal Assent see s. 67(7); s. 61 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

62 Publication of material relating to legal proceedings

- (1) In section 97(2) of the Children Act 1989 (c. 41) (privacy for children involved in certain proceedings), after “publish” insert “ to the public at large or any section of the public ”.
- (2) In section 12(4) of the Administration of Justice Act 1960 (c. 65) (publication of information relating to proceedings in private), at the end insert “(and in particular where the publication is not so punishable by reason of being authorised by rules of court)”.
- (3) In section 66 of the Adoption Act 1976 (c. 36) (rules of procedure), after subsection (5) insert—

“(5A) Rules may, for the purposes of the law relating to contempt of court, authorise the publication in such circumstances as may be specified of information relating to proceedings held in private involving children.”
- (4) In section 145(1) of the Magistrates’ Courts Act 1980 (c. 43) (rules: supplementary), after paragraph (g) insert—

“(ga) authorising, for the purposes of the law relating to contempt of court, the publication in such circumstances as may be specified of information relating to proceedings referred to in section 12(1)(a) of the Administration of Justice Act 1960 which are held in private;”.
- (5) In section 40(4) of the Matrimonial and Family Proceedings Act 1984 (c. 42) (family proceedings rules), in paragraph (a) after “County Courts Act 1984;” insert—

“(aa) authorise, for the purposes of the law relating to contempt of court, the publication in such circumstances as may be specified of information relating to family proceedings held in private;”.
- (6) In section 141 of the Adoption and Children Act 2002 (c. 38) (rules of procedure) at the end insert—

“(6) Rules may, for the purposes of the law relating to contempt of court, authorise the publication in such circumstances as may be specified of information relating to proceedings held in private involving children.”

Status: Point in time view as at 28/04/2022.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

(7) In section 76 of the Courts Act 2003 (c. 39) (Family Procedure Rules: further provision) after subsection (2) insert—

“(2A) Family Procedure Rules may, for the purposes of the law relating to contempt of court, authorise the publication in such circumstances as may be specified of information relating to family proceedings held in private.”

63 Disclosure of information by Inland Revenue

(1) In Schedule 5 to the Tax Credits Act 2002 (c. 21) (use and disclosure of information), after paragraph 10 insert—

“Provision of information by Board for purposes relating to welfare of children

10A (1) This paragraph applies to information, other than information relating to a person’s income, which is held for the purposes of functions relating to tax credits, child benefit or guardian’s allowance—

- (a) by the Board, or
- (b) by a person providing services to the Board, in connection with the provision of those services.

(2) Information to which this paragraph applies may be supplied to—

- (a) a local authority in England and Wales for use for the purpose of any enquiry or investigation under Part 5 of the Children Act 1989 relating to the welfare of a child;
- (b) a local authority in Scotland for use for the purpose of any enquiry or investigation under Chapter 3 of Part 2 of the Children (Scotland) Act 1995 relating to the welfare of a child;
- (c) an authority in Northern Ireland for use for the purpose of any enquiry or investigation under Part 6 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I.2)) relating to the welfare of a child.

(3) Information supplied under this paragraph is not to be supplied by the recipient to any other person or body unless it is supplied—

- (a) for the purpose of any enquiry or investigation referred to in sub-paragraph (2) above,
- (b) for the purpose of civil or criminal proceedings, or
- (c) where paragraph (a) or (b) does not apply, to a person to whom the information could be supplied directly by or under the authority of the Board.

(4) Information may not be supplied under sub-paragraph (3)(b) or (c) without the authority of the Board.

(5) A person commits an offence if he discloses information supplied to him under this paragraph unless the disclosure is made—

- (a) in accordance with sub-paragraph (3),
- (b) in accordance with an enactment or an order of a court,
- (c) with consent given by or on behalf of the person to whom the information relates, or

Status: Point in time view as at 28/04/2022.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Part 5. (See end of Document for details)

- (d) in such a way as to prevent the identification of the person to whom it relates.
 - (6) It is a defence for a person charged with an offence under sub-paragraph (5) to prove that he reasonably believed that his disclosure was lawful.
 - (7) A person guilty of an offence under sub-paragraph (5) is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum or to both;
 - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
 - (8) In sub-paragraph (2) “child” means a person under the age of eighteen and—
 - (a) in paragraph (a), “local authority” has the meaning given by section 105(1) of the Children Act 1989;
 - (b) in paragraph (b), “local authority” has the meaning given by section 93(1) of the Children (Scotland) Act 1995; and
 - (c) in paragraph (c), “authority” has the meaning given by Article 2 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I.2)).
 - (9) The reference to an enactment in sub-paragraph (5)(b) includes a reference to an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
- (2) In relation to an offence committed under sub-paragraph (5) of paragraph 10A of Schedule 5 to the Tax Credits Act 2002 (c. 21) (as inserted by subsection (1) above) before [F292 May 2022], the reference in sub-paragraph (7)(b) of that paragraph to twelve months shall be read as a reference to six months.

Textual Amendments

F29 Words in s. 63(2) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), [Sch. Pt. 1](#)

Status:

Point in time view as at 28/04/2022.

Changes to legislation:

There are currently no known outstanding effects for the Children Act 2004, Part 5.