



# Children and Young Persons Act 2008

## 2008 CHAPTER 23

### PART 5

#### SUPPLEMENTARY, GENERAL AND FINAL PROVISIONS

##### *Supplementary*

#### **39 Minor and supplementary amendments to the 1989 Act**

Schedule 3 (which contains minor and supplementary amendments to the 1989 Act, including amendments to Parts 3 and 7 of that Act to substitute references to the Welsh Ministers for existing phrases which are to be read as including references to those Ministers by virtue of the Government of Wales Act 2006 (c. 32)) has effect.

##### *General*

#### **40 Orders, regulations and guidance**

- (1) Any order or regulations made by the Secretary of State or the Welsh Ministers under this Act must be made by statutory instrument.
- (2) A statutory instrument containing provision made by the Secretary of State under section 1(6) or (7) or section 11 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other statutory instrument containing provision made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing provision made by the Welsh Ministers under section 1(6) or (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.
- (5) A statutory instrument containing provision made under section 12 may not be made unless—

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- (a) a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales, and
  - (b) having been so approved, has been laid before and approved by a resolution of each House of Parliament.
- (6) As soon as reasonably practicable after the resolution required by subsection (5)(a) has been passed, the First Minister must ensure that notice in writing of the resolution and a copy of the draft of the statutory instrument is sent to the Secretary of State.
- (7) On receipt of a draft of a statutory instrument under subsection (6) the Secretary of State must as soon as reasonably practicable lay it before each House of Parliament.
- (8) Paragraph (b) of subsection (5) and subsections (6) and (7) cease to have effect on the making of an order under section 105 of the Government of Wales Act 2006 (c. 32) bringing the Assembly Act provisions into force.
- (9) In subsection (8) “the Assembly Act provisions” has the same meaning as in the Government of Wales Act 2006 (see section 103(8) of that Act).
- (10) Any other statutory instrument containing provision made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (11) Subsections (3) and (10) do not apply to a statutory instrument containing only provision made under section 44.
- (12) Any power to make regulations under this Act includes power to make—
- (a) different provision for different cases;
  - (b) such supplemental or consequential provisions as appear to the Secretary of State or, as the case may be, the Welsh Ministers to be appropriate.
- (13) Any power under this Act to give guidance includes power to give different guidance for different cases.

## 41 Interpretation

In this Act—

“the 1989 Act” means the Children Act 1989 (c. 41);

“the 2000 Act” means the Care Standards Act 2000 (c. 14).

[<sup>F1</sup>“the 2014 Act” means the Social Services and Well-being (Wales) Act 2014 (anaw 4).]

### Textual Amendments

- F1** Words in s. 41 inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#), regs. 2(1), **265**

## 42 Repeals

The provisions specified in Schedule 4 are repealed to the extent there specified.

### Commencement Information

- I1** S. 42 in force for specified purposes at 1.4.2009 for E. by [S.I. 2009/268](#), **art. 3(2)(b)**

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- I2** S. 42 in force for specified purposes at 6.4.2009 for W. by [S.I. 2009/728, art. 2\(c\)](#)
- I3** S. 42 in force for specified purposes at 6.4.2009 for E. by [S.I. 2009/268, art. 3\(3\)\(b\)](#)
- I4** [S. 42](#) in force at 1.9.2009 for specified purposes for E. by [S.I. 2009/2273, art. 2\(2\)\(m\)](#)
- I5** [S. 42](#) in force at 1.9.2009 for W. by [S.I. 2009/1921, art. 2\(d\)](#)
- I6** [S. 42](#) in force at 1.4.2010 for specified purposes for E. by [S.I. 2009/3354, art. 3\(2\)\(d\)](#)
- I7** [S. 42](#) in force at 28.3.2011 for specified purposes for W. by [S.I. 2011/949, art. 3\(1\)\(c\)](#)
- I8** [S. 42](#) in force at 1.4.2011 for specified purposes for E. by [S.I. 2010/2981, art. 4\(l\)](#)
- I9** [S. 42](#) in force at 19.6.2012 for specified purposes for W. by [S.I. 2012/1553, art. 2\(e\)](#)

### *Final*

#### **43 Extent**

- (1) Subject to subsection (2), this Act extends to England and Wales only.
- (2) Paragraph 9 of Schedule 1 also extends to Scotland.

#### **44 Commencement**

- (1) Section 7 and this Part come into force on the day on which this Act is passed.
- (2) The reference in subsection (1) to this Part does not include—
  - (a) paragraph 4 of Schedule 3 (which comes into force in accordance with subsection (9)); and
  - (b) section 42 and Schedule 4 (which come into force in accordance with subsections (3) and (4)).
- (3) In relation to Wales, the provisions specified in subsection (5) come into force on such day as the Welsh Ministers may by order appoint.
- (4) Otherwise the provisions of this Act come into force on such day as the Secretary of State may by order appoint.
- (5) The provisions are—
  - (a) Parts 1 to 4 (except sections 7, 17, 18, 31 and 32);
  - (b) section 42 and Schedule 4.
- (6) An order under this section bringing subsection (2) of section 10 into force in relation to Wales requires the consent of the Secretary of State.
- (7) An order under this section bringing section 17 or 18 into force requires the consent of the Welsh Ministers.
- (8) Before making an order bringing section 31 or 32 into force, the Secretary of State must consult the Welsh Ministers.
- (9) Paragraph 4 of Schedule 3 comes into force on the same day as section 7(1) of the Carers and Disabled Children Act 2000 (c. 16) comes into force for the purpose of inserting section 17B into the 1989 Act in relation to Wales.
- (10) An order under this section may—
  - (a) appoint different days for different purposes;
  - (b) include transitional, saving or transitory provision.

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#### **45 Short title**

This Act may be cited as the Children and Young Persons Act 2008.

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