

Status: Point in time view as at 06/04/2009.

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SCHEDULES

VALID FROM 01/09/2009

SCHEDULE 1

Section 8(2)

CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES: SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS

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SCHEDULE 2

Section 8(3)

TRANSITORY MODIFICATIONS OF SCHEDULE 2 TO THE 1989 ACT

- 1 Paragraph 12 of Schedule 2 to the 1989 Act (regulations as to placing of children with local authority foster parents) has effect as if paragraphs (d) and (g) were omitted.

Commencement Information

- II** Sch. 2 para. 1 in force at 12.2.2009 for E. by S.I. 2009/268, art. 3(1)(b)

- 2 That Schedule has effect as if, after paragraph 12, there were inserted—
- “12A(1) Regulations under section 23(2)(a) 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;
 - (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;

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- (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.
- 12B Regulations under section 23(2)(a) 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.”

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Commencement Information

I2 Sch. 2 para. 2 in force at 12.2.2009 for E. by S.I. 2009/268, art. 3(1)(b)

SCHEDULE 3

Section 39

MINOR AND SUPPLEMENTARY AMENDMENTS TO THE 1989 ACT

- 1 The 1989 Act is amended in accordance with this Schedule.
- 2 In section 17(4) for “Secretary of State” substitute “appropriate national authority”.
- 3 In section 17A(1) for “Secretary of State” substitute “appropriate national authority”.

PROSPECTIVE

F14

Textual Amendments

F1 Sch. 3 paras. 2-19 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), 267(a)

- 5 In section 21(3), after “Secretary of State” insert “, the Welsh Ministers”.
- 6 In section 22(7)—
 - (a) for “Secretary of State” substitute “appropriate national authority”;
 - (b) for “he” substitute “the appropriate national authority”;
 - (c) for “the authority” substitute “the local authority”.
- 7 (1) Section 23 is amended as follows.
 - (2) In subsection (2), in paragraphs (a) and (f)(ii) for “Secretary of State” substitute “appropriate national authority”.
 - (3) In subsection (2A)—
 - (a) for the words “the Secretary of State”, in the first place where they occur, substitute “an appropriate national authority”;
 - (b) for those words in the second place where they occur, substitute “that national authority”.
 - (4) In subsection (5) for “Secretary of State” substitute “appropriate national authority”.
 - (5) In subsection (6) for “Secretary of State” substitute “appropriate national authority”.
- 8 (1) Section 23A is amended as follows.
 - (2) In subsection (3) for “Secretary of State” substitute “appropriate national authority”.
 - (3) In subsection (5)—
 - (a) for “Secretary of State” substitute “appropriate national authority”;

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- (b) for “he” substitute “the appropriate national authority”.
- 9 (1) Section 23B is amended as follows.
- (2) In subsection (5) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (7) for “The authority” substitute “The local authority”.
- (4) In subsection (10) for “Secretary of State” substitute “appropriate national authority”.
- 10 In section 23D, in subsections (1) and (2), for “Secretary of State” substitute “appropriate national authority”.
- 11 In section 23E(2) for “Secretary of State” substitute “appropriate national authority”.
- 12 In section 24(5)(za) for “Secretary of State” substitute “appropriate national authority”.
- 13 In section 24B(6) for “Secretary of State” substitute “appropriate national authority”.
- 14 In section 24D, in subsections (1A) and (2), for “Secretary of State” substitute “appropriate national authority”.
- 15 In section 25, in subsections (2) and (7), for “Secretary of State” substitute “appropriate national authority”.
- 16 (1) Section 26 is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “appropriate national authority”.
- (3) In subsection (2D) for “National Assembly for Wales” substitute “Welsh Ministers”.
- (4) In each of subsections (3A), (3B), (3C), (4A), (5) and (6) for “Secretary of State” substitute “appropriate national authority”.
- 17 In section 26ZB(1) for “Secretary of State” substitute “Welsh Ministers”.
- 18 In section 26A, in each of subsections (3)(a) and (4), for “Secretary of State” substitute “appropriate national authority”.
- 19 In section 27(3)(e) for “Secretary of State” substitute “appropriate national authority”.
- 20 In section 29(8)(c) after “Secretary of State” insert “, the Welsh Ministers”.
- 21 (1) Section 30 is amended as follows.
- (2) In subsection (2) for “Secretary of State” substitute “determining authority”.
- (3) After subsection (2) insert—
- “(2A) For the purposes of subsection (2) “the determining authority” is—
- (a) in a case where all the local authorities concerned are in Wales, the Welsh Ministers;
- (b) in any other case, the Secretary of State.
- (2B) In a case where—
- (a) the determining authority is the Secretary of State, and
- (b) one or more of the local authorities concerned are in Wales,

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the Secretary of State must consult the Welsh Ministers before making a determination for the purposes of subsection (2).”

(4) In subsection (4) for “Secretary of State” substitute “appropriate national authority”.

22 After section 30 insert—

“30A Meaning of appropriate national authority

In this Part “the appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.”

23 (1) Section 59 is amended as follows.

(2) In subsection (1A)—

- (a) for the words “the Secretary of State”, in the first place where they occur, substitute “an appropriate national authority”; and
- (b) for those words in the second place where they occur, substitute “that national authority”.

(3) In subsection (2) for “Secretary of State” substitute “appropriate national authority”.

(4) In subsection (3) for “Secretary of State” substitute “appropriate national authority”.

(5) In subsection (4) for “Secretary of State” substitute “appropriate national authority”.

(6) After subsection (6) add—

“(7) In this Part “appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.”

24 In section 62(3) for “Secretary of State” substitute “appropriate national authority”.

25 (1) Section 104 is amended as follows.

(2) In subsection (2) after “108(2)” insert “or one containing regulations which fall within subsection (3B) or (3C)”.

(3) Omit subsection (2A).

(4) For subsection (3) substitute—

“(3A) An order under section 4(1B) or 17(4) or regulations which fall within subsection (3B) or (3C) shall not be made by the Secretary of State unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.

(3B) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by section 23C(5B)(b).

(3C) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by paragraph 6(2) of Schedule 2.”

(5) In subsection (4)(c) omit—

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- (a) the word “such”;
- (b) the words “as the person making it considers expedient”.
- 26 After section 104 insert—
- “104A Regulations and orders made by the Welsh Ministers under Part 3 etc.**
- (1) Any power of the Welsh Ministers under Part 3, Part 7 or section 86A to make an order or regulations shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4) or one containing regulations which fall within subsection (4) or (5), shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) An order under section 17(4) or regulations which fall within subsection (4) or (5) shall not be made by the Welsh Ministers unless a draft of the statutory instrument containing the order or regulations has been laid before and approved by a resolution of the National Assembly for Wales.
- (4) Regulations fall within this subsection if they are the first regulations to be made by the Welsh Ministers in the exercise of the power conferred by section 23C(5B)(b).
- (5) Regulations fall within this subsection if they are the first regulations to be made by the Welsh Ministers in the exercise of the power conferred by paragraph 6(2) of Schedule 2.”
- 27 (1) Schedule 2 is amended as follows.
- (2) In paragraph 17(7) for “Secretary of State” substitute “appropriate national authority”.
- (3) In paragraph 19B, in sub-paragraphs (3) and (7), for “Secretary of State” substitute “appropriate national authority”.
- (4) In paragraph 20(1)(a) for “Secretary of State” substitute “appropriate national authority”.
- (5) In paragraph 25—
- (a) for “Secretary of State” substitute “appropriate national authority”;
- (b) for “they” substitute “a local authority”.
- 28 In paragraph 7 of Schedule 5 for “Secretary of State” substitute “appropriate national authority”.

SCHEDULE 4

Section 42

REPEALS

Commencement Information

- I3** Sch. 4 in force for specified purposes at 1.4.2009 for E. by [S.I. 2009/268](#), [art. 3\(2\)\(b\)](#)
- I4** Sch. 4 in force for specified purposes at 6.4.2009 for W. by [S.I. 2009/728](#), [art. 2\(c\)](#)

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I5 Sch. 4 in force for specified purposes at 6.4.2009 for E. by [S.I. 2009/268](#), **art. 3(3)(b)**

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Children Act 1989 (c. 41)	Section 12(5) and (6). In section 17(6), the words “, in exceptional circumstances,”. Section 23B(4) to (7). In section 26, subsections (2)(k) and (2A) to (2D). Section 45(9). In section 59— (a) in subsection (2) the words from “and” to the end; (b) in subsection (3) the words from “and” to the end. In section 91(10), the words “or 12(5)”. In section 104— (a) subsection (2A); (b) in subsection (3), the words “or 17(4)”; (c) in subsection (4)(c), the word “such” and the words “as the person making it considers expedient”. In section 105(1), the definition of “appropriate children's home”. In Schedule 2— (a) in paragraph 6(1), the word “and” immediately preceding paragraph (b); (b) paragraph 17.
Criminal Justice Act 1991 (c. 53)	In section 61(5), the words from “and” to the end.
Care Standards Act 2000 (c. 14)	In section 5(1A), the word “and” immediately preceding paragraph (e). In section 21— (a) in subsection (1), the word “or” immediately preceding paragraph (b); (b) in subsection (5), the words “against a decision or order”.
Adoption and Children Act 2002 (c. 38)	In section 12— (a) in subsection (1), the words “a panel constituted by”; (b) in paragraph (a) of subsection (3), the words from “(including” to the end of that paragraph. In section 118, subsections (1)(c) and (2).
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In section 806(5), the word “and” after paragraph (c).
Childcare Act 2006 (c. 21)	In section 18(8)(a), the words “ “appropriate children's home” ”.

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Education and Inspections Act 2006 (c. 40)	In section 148(2), the words “(in accordance with subsection (1))”.
Safeguarding Vulnerable Groups Act 2006 (c. 47)	In section 53(7)(a), the words “of section 23(2)(a)”.
This Act	Part 1. Sections 11 to 13.

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