

## **EXPLANATORY NOTES**

### **CHILDREN AND FAMILIES ACT 2014**

#### **INTRODUCTION**

#### **BACKGROUND AND SUMMARY**

##### **PART 1: ADOPTION AND CONTACT**

##### **PART 2: FAMILY JUSTICE**

##### **PART 3: CHILDREN AND YOUNG PEOPLE IN ENGLAND WITH SPECIAL EDUCATIONAL NEEDS OR DISABILITIES**

##### **PART 4: CHILDCARE ETC**

##### **PART 5: WELFARE OF CHILDREN**

##### **PART 6: THE CHILDREN'S COMMISSIONER**

##### **PART 7: STATUTORY RIGHTS TO LEAVE AND PAY**

##### **PART 8: TIME OFF WORK: ANTE-NATAL CARE ETC**

##### **PART 9: RIGHT TO REQUEST FLEXIBLE WORKING**

#### **TERRITORIAL EXTENT AND APPLICATION**

##### **Scotland**

##### **Northern Ireland**

##### **Wales**

##### **PART 1: ADOPTION AND CONTACT**

##### **PART 2: FAMILY JUSTICE**

##### **PART 3: CHILDREN AND YOUNG PEOPLE IN ENGLAND WITH SPECIAL EDUCATIONAL NEEDS OR DISABILITIES**

##### **PART 5: WELFARE OF CHILDREN**

##### **PART 6: THE CHILDREN'S COMMISSIONER**

##### **PARTS 7, 8 & 9: STATUTORY RIGHTS TO LEAVE AND PAY, TIME OFF WORK: ANTE-NATAL CARE ETC AND RIGHT TO REQUEST FLEXIBLE WORKING**

## **COMMENTARY ON SECTIONS**

### **PART 1: ADOPTION AND CONTACT**

#### **Adoption**

Section 1: Contact between prescribed persons and adopted person's relatives

Section 2: Placement of looked after children with prospective adopters

Section 3: Repeal of requirement to give due consideration to ethnicity:  
England

Section 4: Recruitment, assessment and approval of prospective adopters

Section 5: Adoption support services: personal budgets

Section 6: Adoption support services: duty to provide information

Section 7 and Schedule 1: The Adoption and Children Act Register

#### **Contact**

Section 8: Contact: children in care of local authorities

Section 9: Contact: post-adoption

### **PART 2 – FAMILY JUSTICE**

Section 10: Family mediation information and assessment meetings

Section 11: Welfare of the child: parental involvement

Section 12: Child arrangements orders

Schedule 2 – Child arrangements orders: amendments

#### **SCHEDULE 2, PART 1: AMENDMENTS OF THE CHILDREN ACT 1989**

#### **SCHEDULE 2, PART 2 – CHILD ARRANGEMENTS ORDER – AMENDMENTS IN OTHER LEGISLATION**

Section 13: Control of expert evidence, and of assessments, in children  
proceedings

Section 14: Care, supervision and other family proceedings: time limits and  
timetables

Section 15: Care Plans

Section 16: Care proceedings and care plans: regulations: procedural requirements

Section 17: Repeal of restrictions on divorce and dissolution etc where there are  
children

Section 18: Repeal of uncommenced provisions of Part 2 of the Family Law Act  
1996

## **PART 3 - CHILDREN AND YOUNG PEOPLE IN ENGLAND WITH SPECIAL EDUCATIONAL NEEDS OR DISABILITIES**

### **Local authority functions: general principles**

Section 19: Local authority functions: Supporting and involving children and young people

### **Special educational needs etc**

Section 20: When a child or young person has special educational needs

Section 21: Special educational provision, health care provision and social care provision

### **Identifying children and young people with special educational needs and disabilities**

Section 22: Identifying children and young people with special educational needs and disabilities

Section 23: Duty of health bodies to bring certain children to local authority's attention

### **Children and young people for whom a local authority is responsible**

Section 24: When a local authority is responsible for a child or young person

### **Education, health and care provision: integration and joint commissioning**

Section 25: Promoting integration

Section 26: Joint commissioning arrangements

### **Review of education and care provision**

Section 27: Duty to keep education and care provision under review

### **Co-operation and assistance**

Section 28: Co-operating generally: local authority functions

Section 29: Co-operating generally: governing body functions

### **Information and advice**

Section 30: Local offer

Section 31: Co-operating in specific cases: local authority functions

Section 32: Advice and information

### **Mainstream education**

Section 33: Children and young people with EHC plans

Section 34: Children and young people with special educational needs but no EHC plan

*These notes refer to the Children and Families Act 2014 (c.6)*

Section 35: Children with special educational needs in maintained nurseries and mainstream schools

### **Assessment**

Section 36: Assessment of education, health and care needs

### **Education, health and care plans**

Section 37: Education, health and care plans

Section 38: Preparation of EHC plans: draft plan

Section 39: Finalising EHC plans: request for particular school or other institution

Section 40: Finalising EHC plans: no request for particular school or other institution

Section 41: Independent special schools and special post-16 institutions: approval

Section 42: Duty to secure special educational provision and health care provision in accordance with EHC plan

Section 43: Schools and other institutions named in EHC plan: duty to admit

Section 44: Reviews and re-assessments

Section 45: Ceasing to maintain an EHC plan

Section 46: Maintaining an EHC plan after young person's 25 birthday

Section 47: Transfer of EHC plans

Section 48: Release of a child or young person for whom EHC plan previously maintained

Section 49: Personal budgets and direct payments

Section 50: Continuation of services under section 17 of the Children Act 1989

### **Appeals, mediation and dispute resolution**

Section 51: Appeals

Section 52: Right to mediation

Section 53: Mediation: health care issues

Section 54: Mediation: educational and social care issues etc

Section 55: Mediation

Section 56: Mediation: supplementary

Section 57: Resolution of disagreements

*These notes refer to the Children and Families Act 2014 (c.6)*

Section 58: Appeals and claims by children: pilot schemes

Section 59: Appeals and claims by children: follow-up provision

Section 60: Equality Act 2010: claims against schools by disabled young people

### **Special educational provision: functions of local authorities**

Section 61: Special educational provision otherwise than in schools, post-16 institutions etc

Section 62: Special educational provision outside England and Wales

Section 63: Fees for special educational provision at non-maintained schools and post-16 institutions

Section 64: Supply of goods and services

Section 65: Access to schools, post-16 institutions and other institutions

### **Special educational provision: functions of governing bodies and others**

Section 66: Using best endeavours to secure special educational provision

Section 67: SEN co-ordinators

Section 68: Informing parents and young people

Section 69: SEN information report

### **Detained Persons**

Section 70: Application of Part to detained persons

Section 71: Assessment of post-detention education, health and care needs of detained persons

Section 72: Securing EHC plans for certain detained persons

Section 73: EHC plans for certain detained persons: appeals and mediation

Section 74: Duty to keep EHC plans for detained persons.

Section 75: Supply of goods and services: detained persons

### **Information to improve well-being of children and young people with SEN**

Section 76: Provision and publication of special needs information

### **Code of Practice**

Section 77: Code of Practice

Section 78: Making and approval of Code

Section 79: Review of resolution of disagreements

## **Supplementary**

Section 80: Parents and young people lacking capacity

Section 81: Disapplication of Chapter 1 of Part 4 of EA 1996 in relation to children in England

## **PART 4 – CHILDCARE ETC**

Section 84: Childminder agencies

Schedule 4: Childminder agencies: amendments

Section 85: Inspection of providers of childcare to young children

Section 86: Repeal of local authority's duty to assess sufficiency of childcare provision

Section 87: Discharge of authority's duty to secure free early years provision

Section 88: Governing bodies: provision of community facilities

Section 89: Childcare costs scheme: preparatory expenditure

## **PART 5 – WELFARE OF CHILDREN**

Section 90: Extension of licensing of child performances to children under 14

Section 91: Purchase of tobacco etc. on behalf of persons under 18

Section 92: Prohibition of sale of nicotine products to persons under 18

Section 93: Amendments consequential on section 92

Section 94: Regulation of retail packaging etc of tobacco products

Section 95: Smoking in a private vehicle

Section 96: Young carers

Section 97: Parent carers

Section 98: Arrangements for living with former foster parents after reaching adulthood

Section 99: Promotion of educational achievement of children looked after by local authorities

Section 100: Duty to support pupils with medical conditions

Section 101: Local authority functions relating to children etc: intervention

Section 102: Application of suspension etc powers to establishments and agencies in England

Section 103: Objectives and standards for establishments and agencies in England

*These notes refer to the Children and Families Act 2014 (c.6)*

Section 104: National minimum standards for establishments and agencies in England

Section 105: Disqualification from carrying on, or being employed in, a children's home

Section 106: Provision of free school lunches

## **PART 6 - THE CHILDREN'S COMMISSIONER**

Section 107: Primary function of the Children's Commissioner

### **2A United Nations Convention on the Rights of the Child (UNCRC)**

#### **Section 2B: Involving children in the discharge of the primary function**

#### **Section 2C: Primary function: reports**

Section 108: Provision by Commissioner of advice and assistance to certain children

Section 109: Commissioner's power to enter premises

Section 110: Provision of information to Commissioner

Section 111: Advisory board

Section 112: Business plans

Section 113: Annual reports

Section 114: Children living away from home or receiving social care

Section 115 and Schedule 5: Minor and consequential amendments

### **Inquiries**

### **Functions of Commissioner in respect of Wales, Scotland and Northern Ireland**

### **Young persons**

### **Appointment and tenure of the Children's Commissioner**

### **Interim Appointments**

### **Deputy Children's Commissioner**

Section 116: Repeal of requirement to appoint a Children's Rights Director

Schedule 6: Repeal of requirement to appoint a Children's Rights Director: Transfer schemes

## **PART 7 - STATUTORY RIGHTS TO LEAVE AND PAY**

### **Shared parental leave**

Section 117: Shared parental leave

**Section 75E: Entitlement to shared parental leave: birth**

**Section 75F: Entitlement to leave under section 75E: further provision**

**Section 75G: Entitlement to shared parental leave: adoption**

**Section 75H: Entitlement to leave under section 75G: further provision**

**Section 75I: Rights during and after shared parental leave**

**Section 75J: Redundancy and dismissal**

**Section 75K: Chapter 1B: supplemental**

Section 118: Exclusion or curtailment of other statutory rights to leave

**Statutory shared parental pay**

Section 119: Statutory shared parental pay

**Section 171ZU: Entitlement: birth**

**Section 171ZV: Entitlement: adoption**

**Section 171ZW: Entitlement: general**

**Section 171ZX: Liability to make payments**

**Section 171ZY: Rate and period of pay**

**Section 171ZZ: Restrictions on contracting out**

**Section 171ZZ1: Relationship with contractual remuneration**

**Section 171ZZ2: Crown employment**

**Section 171ZZ3: Special classes of person**

**Section 171ZZ4: Part 12ZC: supplementary**

**Section 171ZZ5: Power to apply Part 12ZC**

Section 120: Curtailment of statutory pay periods and exclusion of statutory pay

**Other statutory rights**

Section 121: Statutory rights to leave and pay of prospective adopters with whom looked after children are placed

Section 122: Statutory rights to leave and pay of applicants for parental orders

Section 123: Statutory paternity pay: notice requirement and period of payment



*These notes refer to the Children and Families Act 2014 (c.6)*

Section 124: Rate of statutory adoption pay

Section 125: Abolition of additional paternity leave and additional statutory paternity pay

Section 126: Further amendments

Schedule 7: Statutory rights to leave and pay: further amendments

## **PART 8 – TIME OFF WORK: ANTE-NATAL CARE ETC**

Section 127: Time off work to accompany to ante-natal appointments

Section 128: Time off work to attend adoption appointments

**Section 57ZJ: Right to paid time off to attend adoption appointments**

**Section 57ZK: Right to remuneration for time off for adoption appointments**

**Section 57ZL: Right to unpaid time off to attend adoption appointments**

**Section 57ZM: Complaint to employment tribunal**

**Section 57ZN: Right to paid time off to attend adoption appointments: agency workers**

**Section 57ZO: Right to remuneration for time off to attend adoption appointments: agency workers**

**Section 57ZP: Right to unpaid time off to attend adoption appointments: agency workers**

**Section 57ZQ: Complaint to employment tribunal: agency workers**

**Section 57ZR: Agency workers: supplementary**

Section 129: Right not to be subjected to detriment: agency workers

Section 130: Time off work for ante-natal care: increased amount of award

## **PART 9 – RIGHT TO REQUEST FLEXIBLE WORKING**

Section 131: Removal of the requirement to be a carer

Section 132: Dealing with applications

Section 133: Complaints to employment tribunals

Section 134: Review of sections 131 to 133

## **PART 10 – GENERAL PROVISIONS**

Section 135: Orders and regulations

Section 136: Consequential amendments, repeals and revocations

Section 137: Transitional, transitory or saving provision

*These notes refer to the Children and Families Act 2014 (c.6)*

Section 139: Commencement

Section 140: Short title and extent

## **HANSARD REFERENCES**