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## EXPLANATORY NOTE

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

This Order brings into force provisions of the Apprenticeships, Skills, Children and Learning Act 2009 (“the Act”) on 26th February, 1st, 6th, and 19th April, 1st September 2010 and 6th April 2011. Where a provision is brought into force for certain purposes only, those purposes are specified in column 2 of the tables in the Schedules.

### **Provisions coming into force on 26th February 2010**

Section 194 transfers from children’s services authorities to Children Trust Boards (which are to be set up by children’s services authorities) the duty to prepare and review a children and young people’s plan. These provisions are commenced for the purposes of making regulations under sections 12A and 17 of the Children Act 2004 (as amended) only.

### **Provisions coming into force on 1st April 2010**

Sections 41 to 44 set out the new duties and responsibilities that local education authorities will have to ensure access to enough suitable education and training provision for those who are over compulsory school age but under 19 and for those aged 19 or over but under 25 who are subject to learning difficulty assessment. These new responsibilities are being transferred to local education authorities from the Learning and Skills Council for England (LSC) which is dissolved. These sections insert new provisions into the Education Act 1996, the School Standards and Framework Act 1998 and the Further and Higher Education Act 1992 relating to these new duties.

Section 46 inserts a new section 514A into the Education Act 1996 enabling local education authorities, to secure boarding accommodation when securing education and training for young people with learning difficulties who are over compulsory school age but under 25, and subject to learning difficulty assessment.

Section 47 inserts a new section 560A into the Education Act 1996 creating a power for local education authorities to secure the provision of work experience for people who are over compulsory school age but under 19, and those aged 19 or over but under 25 subject to learning difficulty assessment. It also creates a duty on local education authorities to encourage learners to participate in work experience and employers to provide opportunities for work experience.

Sections 53, 54 and 57 amend the local education authority’s duty under the Education Act 1996 to prepare and publish an annual transport policy statement for young people of sixth form age to facilitate their attendance at establishments of education and training. These sections amend the duty so that young people and their parents will be consulted in the drawing up of transport policy statements and requires the statements to provide sufficient information to enable young people and their parents to choose between establishments. Section 57 inserts new sections 508F, 508G, 508H and 508I into the Education Act 1996 in respect of provision of transport etc for adult learners.

Sections 60 to 76 and Schedule 3 establishes the Young People’s Learning Agency for England (YPLA) a small non-departmental public body and sets out its functions, the core function being to support and enable local education authorities to carry out their new duties by securing provision for funding. Section 65 requires the YPLA to ensure, so far as is practicable, that no charge is made for the education and training it funds. Section 66 provides that in certain circumstances the YPLA is able to commission education and training itself and make directions where it is satisfied that a LEA is failing, or is likely to fail in its new duties. Section 67 confers intervention powers. Section 68 gives

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the YPLA the power to provide and receive payment for services in connection with the education and training function of, amongst others, the Secretary of State, the Welsh Ministers, the Scottish Ministers, a Northern Ireland department and the Chief Executive of Skills Funding. Sections 69 and 70 enable the YPLA to take part in arrangements in relation to Wales, Scotland and Northern Ireland for assisting persons to select, train for, obtain and retain employment.

Sections 77 to 78 enable the Secretary of State to require the YPLA to carry out specified functions on the Secretary of State's behalf relating to Academies, city technology colleges and city colleges for the technology of the arts. Section 79 enables persons listed to provide information to each other in order to carry out such a function.

Section 81 and Schedule 4 provide for there to be a Chief Executive of Skills Funding. Section 82 enables the Secretary of State to direct the Chief Executive to designate a person to carry out apprenticeship functions on the Chief Executive's behalf. Sections 83 to 90 provide that the Chief Executive will be responsible for funding post-19 education and training, apprenticeship training for persons aged 16 and over, and education and training of those in adult custody.

Sections 100 to 104 and 106 to 111 set out the further functions of the Chief Executive of Skills Funding, including a power to fund others to provide education or training within the Chief Executive's remit. Sections 112 to 121 contain provision about the exercise of the Chief Executive's functions, including powers of the Secretary of State to direct or give guidance to the Chief Executive.

Section 122 allows information sharing between bodies and persons replacing the LSC to enable or facilitate the exercise of their functions. It does not, however extend local education authorities' existing statutory powers to share information with each other.

Section 123 and Schedule 6 provide for the dissolution of the LSC and make minor and consequential amendments. Section 124 and Schedule 7 gives power to the Secretary of State to make one or more schemes to enable the transfer of staff and property from the LSC to various bodies.

Section 125 and Schedule 8 contain provisions for a new sixth form sector.

Section 193(2)(b) omits the reference to the LSC from the list of relevant partners set out in section 10 of the Children Act 2004.

Section 194 requires children's services authorities, as part of the arrangements made under section 10 of the Children Act 2004, to set up Children's Trust Boards and transfers the responsibility of preparing and reviewing a Children and Young People's Plan.

Sections 196 and 197 amend the Children Act 2004 so as to require each Local Safeguarding Board in England to include two representatives of the local community and permit an authority which establishes the Board to pay remunerations, allowances and expenses to these community representatives. Each Board is required to produce and publish a report at least once a year about safeguarding and promoting the welfare of children in its area and must send a copy of the report to the local Children's Trust Board.

Section 225 inserts three new sections into the Education Act 2005 in relation to the powers of the Chief Inspector and associated duties of schools. Most of the section was commenced on 12th January 2010. This Order commences the section to the extent that it inserts section 14A(3) into the Education Act 2005 requiring the Chief Inspector to ensure a copy of an interim statement is also sent to the YPLA.

Section 256 amends the Further and Higher Education Act 1992 to enable a further education corporation in England to provide advice and assistance to other persons, where it appears appropriate to do so, for the purpose of or in connection with the provision of education by those persons.

Section 266 introduces Schedule 16 which repeals certain provisions in other legislation. The repeals are necessary as a consequence of the various provisions set out in this Order coming into force.

### **Provisions coming into force on 6th April 2010**

Section 40 inserts a new Part 6A (sections 63D to 63K) and two new sections (47F and 104E) into the Employment Rights Act 1996. These new sections introduce a right for qualifying employees to make an application to their employers in relation to study and training - "time to train". Schedule 1 makes amendments to other legislation which are consequential on this new statutory right.

These provisions are brought into force for all purposes except in relation to small employers and their employees (as defined in Schedule 3).

### **Provisions coming into force on 19th April 2010**

Sections 206 to 224 create a new scheme for complaints by parents and pupils and replaces the Secretary of State's role in resolving these complaints with a new parents' and young persons' independent complaints service involving a Local Commissioner. This new scheme is brought into force for complaints against schools maintained by Barking and Dagenham London Borough Council, Cambridgeshire County Council, Medway Council and Sefton Council only.

### **Provisions coming into force on 1st September 2010**

Sections 48 to 50 and 52 of the Act set out new responsibilities local education authorities will have in relation to education and training for children and young people subject to detention in relevant youth accommodation. This Order brings into force sections 48 to 50 (fully) in relation to certain persons detained in young offender institutions in England, or in part of any such institution (other than Ashfield Young Offender Institution in South Gloucestershire). Sections 49 and 50 are also brought into force partially for all other institutions that are relevant youth accommodation.

Section 49 of the Act reverses the effect of section 562 of the Education Act 1996 for children and young people detained in relevant youth accommodation (therefore, functions of local education authorities, the Secretary of State, and parents under that Act will generally apply towards such persons).

Section 51 amends the Crime and Disorder Act 1998 and puts a duty on youth offending teams to notify certain local authorities when a person is detained in, transferred in, or released from, relevant youth accommodation. Section 52 inserts a new section 312A into the Education Act 1996.

Sections 242 and 244 apply to England only. They re-enact existing powers for a head teacher or authorised member of school staff in England; or a principal or authorised member of college staff of an institution in England to search a pupil or student or their possessions without consent for knives, blades and other offensive weapons and extend these powers to enable searches to be undertaken without consent for controlled drugs, alcohol and stolen property. There is a power to make regulations to add to the list of "prohibited items" which may be searched for. Provision is also made for the confiscation and disposal of prohibited items.

Sections 243 and 245 make consequential amendments to apply the current law to Wales only. Members of staff in schools and in colleges in Wales will continue to have powers to search for weapons only as set out in the Education Act 1996 and the Further and Higher Education Act 1992.

Sections 246 and 247 insert new sections into the Education and Inspections Act 2006 and the Further and Higher Education Act 1992 requiring governing bodies of schools in England and governing bodies of institutions within the FE sector in England (including sixth form colleges) to ensure that a procedure is in place for the recording of significant incidents where a member of staff has used force on a pupil or student and the reporting of such incidents to parents or to the local authority. There is also a requirement to take reasonable steps to ensure that the procedure is followed by staff.

Section 248 places a duty on the governing body of a school in England and the proprietor of an Academy, city technology college or city college for the technology of the Arts in England to make

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arrangements to co-operate with at least one other relevant partner with a view to promoting good behaviour.

Section 249 changes the name of pupil referral units in England to “short stay schools” and gives the Secretary of State power to make a consequential amendment order as a result of this change. It also gives the Secretary of State power by regulations to make provision about the closure of short stay schools and to give directions to local authorities about the exercise of their functions in relation to short stay schools.

Section 250 amends section 43 of the Education Act 1997 by inserting new subsection (2ZA) and (2ZB) requiring schools to ensure that the programme of careers education includes information on apprenticeships.

### **Provisions coming into force on 6th April 2011**

Section 40 of and Schedule 1 to the Act are brought fully into force (ie in respect of small employers).