STATUTORY INSTRUMENTS

2012 No. 924 (C. 30)

EDUCATION, ENGLAND AND WALES

The Education Act 2011 (Commencement No. 3 and Transitional and Savings Provisions) Order 2012

Made - - - - 22nd March 2012

The Secretary of State for Education makes the following Order in exercise of the powers conferred by section 82(3) and (7) of the Education Act 2011(**1**).

In accordance with section 82(6) of that Act, the Secretary of State makes this Order with the consent of the Welsh Ministers.

Citation and interpretation

1.—(1) This Order may be cited as the Education Act 2011 (Commencement No. 3 and Transitional and Savings Provisions) Order 2012.

(2) In this Order—

"ASCLA 2009" means the Apprenticeships, Skills, Children and Learning Act 2009(**2**);

"EA 2011" means the Education Act 2011;

"Ofqual" means the Office of Qualifications and Examinations Regulation(**3**).

Provisions coming into force on 1st April 2012

2. The following provisions of EA 2011 come into force on 1st April 2012:

sections 2 and 3;

sections 7 to 10;

section 11 and Schedule 2;

section 12 and Schedule 3;

sections 14 and 15;

section 16 and Schedule 5;

section 17 and Schedule 6;

(**1**) 2011 c. 21.
(**2**) 2009 c. 22.
(**3**) The Office of Qualifications and Examinations Regulation is established under section 127 of the Apprenticeships, Skills, Children and Learning Act 2009.

section 21 and Schedule 7;

section 25;

section 26 and Schedule 8 to the extent that they are not already in force;

section 27 and Schedule 9;

section 49 and Schedule 12;

section 53 to the extent that it is not already in force;

section 54 and Schedule 13 except for paragraph 17(2);

section 57;

section 66;

section 67 and Schedule 16;

section 68 and Schedule 17;

sections 71 and 72;

section 73(3), and section 73(1) to the extent that it relates to section 73(3).

Provisions coming into force on 1st May 2012

3. Sections 23 and 24 of EA 2011 come into force on 1st May 2012.

Transitional provisions: the Chief Regulator of Qualifications and Examinations

4.—(1) This article applies in relation to the person who, immediately before 1st April 2012, is the Chief Regulator of Qualifications and Examinations ("the current Chief Regulator").

(2) On 1st April 2012, the current Chief Regulator is to cease to be known as the Chief Regulator of Qualifications and Examinations.

(3) On and after 1st April 2012, the current Chief Regulator is to be treated —

(a) as having been appointed to chair Ofqual by the Secretary of State, and

(b) as having been so appointed on the date on which she was appointed to chair Ofqual by Her Majesty by Order in Council.

(4) On and after 1st April 2012, the current Chief Regulator's terms of appointment determined under paragraph 3 of Schedule 9 to ASCLA 2009 have effect as terms of appointment determined under paragraph 3A of that Schedule.

5.—(1) This article applies in relation to the person who, immediately before 1st April 2012, is the chief executive of Ofqual ("the current chief executive").

(2) On and after 1st April 2012, the current chief executive is to be treated as a member of Ofqual appointed as the chief executive of Ofqual by Her Majesty by Order in Council.

(3) Accordingly, on and after 1st April 2012, the current chief executive is to be known as the Chief Regulator of Qualifications and Examinations.

(4) Subject to paragraph (5), on and after 1st April 2012, the current chief executive's conditions of service determined under paragraph 6 of Schedule 9 to ASCLA 2009 have effect as the chief executive's terms of appointment determined under paragraph 3 of that Schedule.

(5) The current chief executive is to be treated as having been appointed for a term of five years beginning on the date on which she was appointed as chief executive of Ofqual under paragraph 6 of Schedule 9 to ASCLA 2009.

Transitional and savings provisions: section 49 of, and Schedule 12 to, EA 2011

6. Despite the coming into force of section 49 of, and paragraph 20 of Schedule 12 to, EA 2011 that section and paragraph shall not have effect in relation to a case where before 1st April 2012 the responsible local authority(**4**) have made a proposal to which section 33N of the Further and Higher Education Act 1992(**5**) (before amendment by EA 2011) applies.

7.—(1) Despite the coming into force of section 49 of, and paragraph 23 of Schedule 12 to, EA 2011, that section and paragraph shall not have effect in relation to a case where before 1st April 2012 the Chief Executive of Skills Funding has made a proposal to which section 51(1)(c) of the Further and Higher Education Act 1992(**6**) applies.

(2) For the purposes of a case referred to in paragraph (1)—

(a) The Education (Publication of Draft Proposals and Orders)(Further Education Corporations)(England) Regulations 2001(**7**) shall remain in force, and

(b) compliance with the conditions in section 51(2) shall amount to compliance with section 27 of that Act (as substituted by paragraph 7 of Schedule 12 to EA 2011).

Nick Gibb
Minister of State
Department for Education

22nd March 2012

(**4**) For the meaning of "responsible local authority" see section 90(1) of the Further and Higher Education Act 1992.

(**5**) 1992 c. 13. Section 33N was inserted by paragraphs 1 and 3 of Schedule 8 to the Apprenticeships, Skills, Children and Learning Act 2009 c. 22.

(**6**) 1992 c. 13. Section 51 has been amended by paragraphs 18 and 21 of Schedule 1 to the Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments)(England and Wales) Order 2010, S.I. 2010/1080.

(**7**) S.I. 2001/782. These regulations have been amended by S.I. 2010/789 and S.I. 2010/1172.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 2012 and 1st May 2012 certain provisions of the Education Act 2011 as listed in Articles 2 and 3 respectively.

By section 82(6) of that Act, before making an order bringing section 14 to 17 into force, the Secretary of State must obtain the consent of the Welsh Ministers, and that consent has been obtained.

Those provisions listed in Article 2 are: sections 2 and 3 which make further provision for staff at schools and further education institutions in England to search pupils and students respectively; sections 7 to 12 and Schedules 2 and 3 which are concerned with the abolition of the General Teaching Council for England; sections 14 to 17 and Schedules 5 and 6 which provide for the abolition of the Training and Development Agency for Schools; section 21 and Schedule 7 which make provision for the chief executive of the Office of Qualifications and Examinations Regulation (Ofqual) to be known as the Chief Regulator of Qualifications and Examinations ("the Chief Regulator") and for the chair of Ofqual no longer to be known as the Chief Regulator; sections 25 to 27 and Schedule 8 (fully) and Schedule 9 which are concerned with the abolition of the Qualifications and Curriculum Development Agency; section 49 and Schedule 12 which make amendments in relation to further education corporations and sixth form college corporations; section 53 (fully) and section 54 and Schedule 13 (partially) which make provision for 16 to 19 and alternative provision Academies; section 57 which makes amendments to the Academies Act 2010 regarding a federated school application for an Academy order; and sections 66 to 68 and Schedules 16 and 17 which are concerned with the abolition of the Young People's Learning Agency for England. Section 71 makes changes relating to the certifying authority for apprenticeship certificates and section 72 makes provision regarding consultation by the Chief Executive of Skills Funding in connection with matters related to the performance of any of the functions of the office. Section 73 is only partially commenced by this Order and repeals sections 112 to 114 of the Apprenticeships, Skills, Children and Learning Act 2009.

Article 3 brings sections 23 and 24 into force on 1st May 2012. Section 23 amends Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009 in relation to the enforcement powers of Ofqual, while section 24 amends Chapter 2 of Part 5 of the Education Act 1997 in relation to the enforcement powers of Welsh Ministers in relation to qualifications.

Articles 4 and 5 make transitional provisions in respect of and in relation to persons who hold the posts of chief executive of Ofqual and Chief Regulator on 1st April 2012; Article 6 in relation to proposals for the dissolution of a sixth form college corporation under section 33N of the Further and Higher Education Act 1992; and Article 7 in relation to proposals to dissolve a further education corporation under section 27 of that Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of this Act have been brought into force by a commencement order made before the date of this Order.

Provision	*Date of Commencement*	*S.I. No.*
Section 5	15th January 2012	2012/84

Provision	*Date of Commencement*	*S.I. No.*
Section 18	1st February 2012	2012/84
Section 19	1st February 2012	2012/84
Section 20	1st February 2012	2012/84
Section 22	1st February 2012	2012/84
Section 26 and Schedule 8 for certain purposes	1st February 2012	2012/84
Section 28(5)	1st February 2012	2012/84
Section 29(1), (2) and (8) for the purposes of making regulations under section 46 EA 1997	1st February 2012	2012/84
Section 32	1st February 2012	2012/84
Section 34 and Schedule 10	1st February 2012	2012/84
Section 35	1st February 2012	2012/84
Section 36	1st February 2012	2012/84
Section 37 and Schedule 11 for certain purposes	1st February 2012	2012/84
Section 40(4)	1st February 2012	2012/84
Section 42(8)	1st February 2012	2012/84
Section 43	1st February 2012	2012/84
Section 44	17th November 2011	2011/2750
Section 46	1st February 2012	2012/84
Section 51	15th January 2012	2012/84
Section 52	1st February 2012	2012/84
Section 53 for the purposes only of applying for and making Academy order in respect of alternative provision Academies under sections 3 and 4 of the Academies Act 2010	1st February 2012	2012/84
Section 55	1st February 2012	2012/84
Section 56	1st February 2012	2012/84
Section 59	1st February 2012	2012/84
Section 60	1st February 2012	2012/84
Section 62	1st February 2012	2012/84
Section 63 and Schedule 14 partially	1st February 2012	2012/84
Section 64	1st February 2012	2012/84
Section 65 and Schedule 15	1st February 2012	2012/84
Section 74	1st February 2012	2012/84