Draft Order laid before Parliament under section 95(5) of the Government of Wales Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

CONSTITUTIONAL LAW
DEVOLUTION, WALES

The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the day of 2008

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(**1**) a draft of this Order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of section 95(1) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows:-

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008.

(2) This Order shall come into force on the day after the day on which it is made.

(3) In this Order "the 2006 Act" means the Government of Wales Act 2006.

(**1**) 2006 c.32.

Amendments relating to the field of education and training

2. In field 5 (education and training)(**2**) of Part 1 of Schedule 5 to the 2006 Act, after matter 5.17 insert—

"Matter 5.18

The provision of any of the following for children or young persons—

(a) facilities for social or physical training;

(b) educational activities.

In this matter "children" and "young persons" have the same meaning as in field 15."

Amendments relating to the field of social welfare

3. In field 15 (social welfare)(**3**) of Part 1 of Schedule 5 to the 2006 Act—

(a) omit the words after "This matter does not include" to the end of that field, and after those words insert "charges and payments for residential care.";

(b) after matter 15.1 insert—

"Matter 15.2

Functions of public authorities relating to—

(a) safeguarding children from harm and neglect;

(b) safeguarding and promoting the well-being of vulnerable children;

(c) reducing inequalities in well-being between children or young persons.

This matter applies to the functions of public authorities whose principal functions relate to any one or more of the fields in this Part.

Matter 15.3

Adoption services and special guardianship support services.

Matter 15.4

Fostering.

Matter 15.5

Social care services for any of the following—

(a) children;

(b) persons who care for, or who are about to care for, children;

(c) young persons;

(d) persons formerly looked after—

(i) who have attained the age of 25, and

(ii) who, immediately before attaining that age, have been pursuing, or intending to pursue, education or training.

Matter 15.6

(**2**) In the field of education and training, matters 5.1 to 5.10 were added by the National Assembly for Wales (Legislative Competence)(Conversion of Framework Powers) Order 2007 (SI 2007/910), matters 5.11 to 5.16 by section 27 of the Further Education and Training Act 2007 (c.25) and matter 5.17 by the National Assembly for Wales (Legislative Competence) (Education and Training) Order 2008 (SI 2008/1036).

(**3**) In the field of social welfare, matter 15.1 was added by the National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2008 (SI 2008/1785).

Co-operation and arrangements to safeguard and promote the well-being of children or young persons.

This matter applies to co-operation by, and arrangements made by, —

(a) public authorities whose principal functions relate to any one or more of the fields in this part;

(b) police authorities and chief officers of police for police areas in Wales;

(c) the British Transport Police Authority;

(d) local probation boards for areas in Wales;

(e) the Secretary of State, in relation to the Secretary of State's functions under sections 2 and 3 of the Offender Management Act 2007, or any provider of probation services under arrangements made under section 3(2) of that Act;

(f) youth offending teams for areas in Wales;

(g) the governors of prisons, young offender institutions or secure training centres in Wales (or, in the case of contracted out prisons, young offender institutions or secure training centres or contracted out parts of such institutions, their directors);

(h) persons other than public authorities who are engaged in activities relating to the well-being of children or young persons.

Matter 15.7

Planning by local authorities for the discharge of their functions relating to the well-being of children or young persons.

Matter 15.8

Continuing, dissolving or creating an office or body concerned with safeguarding and promoting the well-being of children or young persons; the functions of such an office or body, including in particular—

(a) reviewing the effect on children or young persons of the exercise by any person of functions related to their well-being;

(b) reviewing and monitoring—

(i) advocacy services;

(ii) arrangements for dealing with complaints and representations made by, or on behalf of, children or young persons in respect of persons with functions related to their well-being or persons providing them with social care services;

(c) examining cases of particular children or young persons;

(d) considering, and making representations about, any matter affecting the well-being of children or young persons.

Interpretation of this field

In this field—

"children" means persons who have not attained the age of 18;

"development" means physical, intellectual, emotional, social or behavioural development;

"health" means physical or mental health;

"local authorities" means the councils of counties or county boroughs in Wales;

"persons formerly looked after" means persons who, at any time before attaining the age of 18—

(a) have been in the care of a public authority, or

(b) have been provided with accommodation by a public authority in order to secure their well-being;

"public authorities" means each public authority within the meaning of section 6 of the Human Rights Act 1998, apart from courts or tribunals;

"social care services" means any of the following provided in connection with the well-being of any person: residential or non-residential care services; advice, counselling or advocacy services; financial or any other assistance;

"vulnerable children" means children—

(a) who are unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for them of social care services,

(b) whose health or development is likely to be significantly impaired, or further impaired, without the provision for them of social care services,

(c) who have a physical or mental impairment,

(d) who are in the care of a public authority, or

(e) who are provided with accommodation by a public authority in order to secure their well-being;

"well-being", in relation to individuals, means well-being so far as relating to any of the following—

(a) health and emotional well-being;

(b) protection from harm and neglect;

(c) education, training and recreation;

(d) the contribution made by them to society;

(e) social and economic well-being;

(f) securing their rights;

"young persons" means persons who have attained the age of 18 but not the age of 25."

Amendments relating to the field of sport and recreation

4. In field 16 (sport and recreation) of Part 1 of Schedule 5 to the 2006 Act, insert—

"Matter 16.1

The provision of recreational facilities and activities for children or young persons.

In this matter "children" and "young persons" have the same meaning as in field 15."

Exceptions to matters in Part 1 of Schedule 5 to the 2006 Act

5. In Part 1 of Schedule 5 to the 2006 Act, after field 20 insert—

"EXCEPTIONS TO MATTERS

The exceptions specified in the first column of each table below are not included within the matters specified in the corresponding entry in the second column.