

Children Act 1989

1989 CHAPTER 41

An Act to reform the law relating to children; to provide for local authority services for children in need and others; to amend the law with respect to children's homes, community homes, voluntary homes and voluntary organisations; to make provision with respect to fostering, child minding and day care for young children and adoption; and for connected purposes. [16th November 1989]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations:

Extent Information

E1 For the extent of the provisions of this Act please see section 108(10)-(12).

Modifications etc. (not altering text)

C1 Act amended by Army Act 1955 (c. 18), **Sch. 5A para. 7(3)–(4)** (as substituted by Children Act 1989 (c. 41 SIF 20), s. 108(4)(6), Sch. 12 para. 8(2), Sch. 14 para. 27(4))

C2 Act amended (*1.11.1994*) by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), **ss. 30(8)(a)**, 39(3), 43(2); S.I. 1994/1776, **art. 2(2)**

C3 Act modified (1.6.1996) by Armed Forces Act 1991 (c. 62, SIF 7:1), **s. 21(4)(b)**; S.I. 1996/1173, **art. 2**

C4 Act modified (14.10.1991) by S.I. 1991/2032, **art. 3(1)**.
Act modified (14.10.1991) by S.I. 1991/2032, **art. 7(1)**.
Act (except for s. 41(8)) amended (01.01.1992) by S.I. 1991/2684, arts. 2(1), 4, **Sch. 1**
Act extended (E.W.)(30.9.1998) by 1998 c. 37, **s. 11(6)**; S.I. 1998/2327, **art.2(1)(c)** (subject to arts. 5-8).
Act: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1** as amended (7.11.2003) by 2002 c. 38, **ss. 145(1)**, 148 (with Sch. 4 paras. 6-8)

C5 By Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(1), **Sch. 12 para. 23**; S.I. 1991/2208, art. 2(1), **Sch.1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in

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any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

C6 Power to modify Act conferred (12.12.1996 for certain purposes and 1.4.1997 otherwise) by 1995 c. 36, **ss. 33(5)(b)**(with ss. 90, 103(1)); S.I. 1996/3201, **art. 3(1)**

C7 Act definition of "parental responsibility" extended (E.W.S.) with modification (7.10.1996) by S.I. 1996/207, **reg. 57(3)**
Act definition of "Voluntary organisation" extended (7.10.1996) by S.I. 1996/207, **reg. 78(9)(c)**

PART I

INTRODUCTORY

1 Welfare of the child.

(1) When a court determines any question with respect to—

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare shall be the court's paramount consideration.

(2) In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

(3) In the circumstances mentioned in subsection (4), a court shall have regard in particular to—

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);

(b) his physical, emotional and educational needs;

(c) the likely effect on him of any change in his circumstances;

(d) his age, sex, background and any characteristics of his which the court considers relevant;

(e) any harm which he has suffered or is at risk of suffering;

(f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;

(g) the range of powers available to the court under this Act in the proceedings in question.

(4) The circumstances are that—

(a) the court is considering whether to make, vary or discharge a section 8 order, and the making, variation or discharge of the order is opposed by any party to the proceedings; or

(b) the court is considering whether to make, vary or discharge **[**[F1]a special guardianship order or**]** an order under Part IV.

(5) Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

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Annotations:

Amendments (Textual)

F1 Words in s. 1(4)(b) inserted (30.12.2005) by 2002 c. 38, ss. 115(3), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

Modifications etc. (not altering text)

C8 S. 1(2)(3)(a)-(f) applied with modifications (14. 10. 1991) by S.I. 1991/1395, r. 11(1) (as amended (8.12.2008) by The Family Proceedings Courts (Children Act 1989) (Amendment) Rules 2008, (S.I. 2008/2858), {rule 7})

Commencement Information

I1 S. 1 wholly in force at 14.10.1991 see s. 108(2(3) and S.I. 1991/828, **art. 3(2)**

2 Parental responsibility for children.

(1) Where a child's father and mother were married to each other at the time of his birth, they shall each have parental responsibility for the child.

[F2(1A) Where a child—

(a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or

(b) has a parent by virtue of section 43 of that Act and is a person to whom section 1(3) of the Family Law Reform Act 1987 applies,

the child's mother and the other parent shall each have parental responsibility for the child.**]**

(2) Where a child's father and mother were not married to each other at the time of his birth—

(a) the mother shall have parental responsibility for the child;

(b) the father **[**F3shall have parental responsibility for the child if he has acquired it (and has not ceased to have it)**]** in accordance with the provisions of this Act.

[F4(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom section 1(3) of the Family Law Reform Act 1987 applies—

(a) the mother shall have parental responsibility for the child;

(b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Act.**]**

(3) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the M1Family Law Reform Act 1987 (which extends their meaning).

(4) The rule of law that a father is the natural guardian of his legitimate child is abolished.

(5) More than one person may have parental responsibility for the same child at the same time.

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(6) A person who has parental responsibility for a child at any time shall not cease to have that responsibility solely because some other person subsequently acquires parental responsibility for the child.

(7) Where more than one person has parental responsibility for a child, each of them may act alone and without the other (or others) in meeting that responsibility; but nothing in this Part shall be taken to affect the operation of any enactment which requires the consent of more than one person in a matter affecting the child.

(8) The fact that a person has parental responsibility for a child shall not entitle him to act in any way which would be incompatible with any order made with respect to the child under this Act.

(9) A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another but may arrange for some or all of it to be met by one or more persons acting on his behalf.

(10) The person with whom any such arrangement is made may himself be a person who already has parental responsibility for the child concerned.

(11) The making of any such arrangement shall not affect any liability of the person making it which may arise from any failure to meet any part of his parental responsibility for the child concerned.

Annotations:

Amendments (Textual)

F2 S. 2(1A) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 26(2)**; S.I. 2009/479, **art. 6(1)(e)**

F3 Words in s. 2(2) substituted (1.12.2003) by 2002 c. 38, ss. 111(5), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F4 S. 2(2A) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 26(3)**; S.I. 2009/479, **art. 6(1)(e)**

Commencement Information

I2 S. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M1 1987 c. 42.

3 Meaning of "parental responsibility".

(1) In this Act "parental responsibility" means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.

(2) It also includes the rights, powers and duties which a guardian of the child's estate (appointed, before the commencement of section 5, to act generally) would have had in relation to the child and his property.

(3) The rights referred to in subsection (2) include, in particular, the right of the guardian to receive or recover in his own name, for the benefit of the child, property of whatever description and wherever situated which the child is entitled to receive or recover.

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(4) The fact that a person has, or does not have, parental responsibility for a child shall not affect—

(a) any obligation which he may have in relation to the child (such as a statutory duty to maintain the child); or

(b) any rights which, in the event of the child's death, he (or any other person) may have in relation to the child's property.

(5) A person who—

(a) does not have parental responsibility for a particular child; but

(b) has care of the child,

may (subject to the provisions of this Act) do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

Annotations:

Commencement Information

I3 S. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

4 Acquisition of parental responsibility by father.

(1) Where a child's father and mother were not married to each other at the time of his birth **[**F5, the father shall acquire parental responsibility for the child if—

(a) he becomes registered as the child's father under any of the enactments specified in subsection (1A);

(b) he and the child's mother make an agreement (a "parental responsibility agreement") providing for him to have parental responsibility for the child; or

(c) the court, on his application, orders that he shall have parental responsibility for the child.**]**

[F6(1A) The enactments referred to in subsection (1)(a) are—

(a) paragraphs (a), (b) and (c) of section 10(1) and of section 10A(1) of the Births and Deaths Registration Act 1953;

(b) paragraphs (a), (b)(i) and (c) of section 18(1), and sections 18(2)(b) and 20(1)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and

(c) sub-paragraphs (a), (b) and (c) of Article 14(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.

(1B) The **[**F7Secretary of State**]** may by order amend subsection (1A) so as to add further enactments to the list in that subsection.**]**

(2) No parental responsibility agreement shall have effect for the purposes of this Act unless—

(a) it is made in the form prescribed by regulations made by the Lord Chancellor; and

(b) where regulations are made by the Lord Chancellor prescribing the manner in which such agreements must be recorded, it is recorded in the prescribed manner.

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[F8(2A) A person who has acquired parental responsibility under subsection (1) shall cease to have that responsibility only if the court so orders.

(3) The court may make an order under subsection (2A) on the application—

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child himself,

subject, in the case of parental responsibility acquired under subsection (1)(c), to section 12(4).**]**

(4) The court may only grant leave under subsection (3)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

Annotations:

Amendments (Textual)

F5 Words in s. 4(1) substituted (1.12.2003) by 2002 c. 38, ss. 111(2), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F6 S. 4(1A)(1B) inserted (1.12.2003) by 2002 c. 38, ss. 111(3), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F7 Words in s. 4(1B) substituted (12.1.2004) by The Transfer of Functions (Children, Young People and Families) Order 2003 (S.I. 2003/3191), art. 6, **Sch. para. 1**

F8 S. 4(2A)(3) substituted (1.12.2003) for s. 4(3) by 2002 c. 38, ss. 111(4), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

Modifications etc. (not altering text)

C9 S. 4(1B): transfer of functions (12.1.2004) by The Transfer of Functions (Children, Young People and Families) Order 2003 (S.I. 2003/3191), **arts. 3(a)**, 4

Commencement Information

I4 S. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F9**4ZA Acquisition of parental responsibility by second female parent**

(1) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom section 1(3) of the Family Law Reform Act 1987 applies, that parent shall acquire parental responsibility for the child if—

(a) she becomes registered as a parent of the child under any of the enactments specified in subsection (2);

(b) she and the child's mother make an agreement providing for her to have parental responsibility for the child; or

(c) the court, on her application, orders that she shall have parental responsibility for the child.

(2) The enactments referred to in subsection (1)(a) are—

(a) paragraphs (a), (b) and (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953;

(b) paragraphs (a), (b) and (d) of section 18B(1) and sections 18B(3)(a) and 20(1)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and

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(c) sub-paragraphs (a), (b) and (c) of Article 14ZA(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.

(3) The Secretary of State may by order amend subsection (2) so as to add further enactments to the list in that subsection.

(4) An agreement under subsection (1)(b) is also a "parental responsibility agreement", and section 4(2) applies in relation to such an agreement as it applies in relation to parental responsibility agreements under section 4.

(5) A person who has acquired parental responsibility under subsection (1) shall cease to have that responsibility only if the court so orders.

(6) The court may make an order under subsection (5) on the application—

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child himself,

subject, in the case of parental responsibility acquired under subsection (1)(c), to section 12(4).

(7) The court may only grant leave under subsection (6)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.**]**

Annotations:

Amendments (Textual)

F9 S. 4ZA inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 27**; S.I. 2009/479, **art. 6(1)(e)**

[F10 4A Acquisition of parental responsibility by step-parent

(1) Where a child's parent ("parent A") who has parental responsibility for the child is married to **[F11**, or a civil partner of,**]** a person who is not the child's parent ("the step-parent")—

(a) parent A or, if the other parent of the child also has parental responsibility for the child, both parents may by agreement with the step-parent provide for the step-parent to have parental responsibility for the child; or

(b) the court may, on the application of the step-parent, order that the step-parent shall have parental responsibility for the child.

(2) An agreement under subsection (1)(a) is also a "parental responsibility agreement", and section 4(2) applies in relation to such agreements as it applies in relation to parental responsibility agreements under section 4.

(3) A parental responsibility agreement under subsection (1)(a), or an order under subsection (1)(b), may only be brought to an end by an order of the court made on the application—

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child himself.

(4) The court may only grant leave under subsection (3)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.**]**

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Annotations:

Amendments (Textual)

F10 S. 4A inserted (30.12.2005) by 2002 c. 38, ss. 112, 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F11 Words in s. 4A(1) inserted (30.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 75(2)**; S.I. 2005/3175, **art. 2(9)**

5 Appointment of guardians.

(1) Where an application with respect to a child is made to the court by any individual, the court may by order appoint that individual to be the child's guardian if—

(a) the child has no parent with parental responsibility for him; or

(b) a residence order has been made with respect to the child in favour of a parent **[**F12, guardian or special guardian**]** of his who has died while the order was in force **[**F13; or

(c) paragraph (b) does not apply, and the child's only or last surviving special guardian dies.**]**

(2) The power conferred by subsection (1) may also be exercised in any family proceedings if the court considers that the order should be made even though no application has been made for it.

(3) A parent who has parental responsibility for his child may appoint another individual to be the child's guardian in the event of his death.

(4) A guardian of a child may appoint another individual to take his place as the child's guardian in the event of his death **[**F14; and a special guardian of a child may appoint another individual to be the child's guardian in the event of his death**]**.

(5) An appointment under subsection (3) or (4) shall not have effect unless it is made in writing, is dated and is signed by the person making the appointment or—

(a) in the case of an appointment made by a will which is not signed by the testator, is signed at the direction of the testator in accordance with the requirements of section 9 of the M2Wills Act 1837; or

(b) in any other case, is signed at the direction of the person making the appointment, in his presence and in the presence of two witnesses who each attest the signature.

(6) A person appointed as a child's guardian under this section shall have parental responsibility for the child concerned.

(7) Where—

(a) on the death of any person making an appointment under subsection (3) or (4), the child concerned has no parent with parental responsibility for him; or

(b) immediately before the death of any person making such an appointment, a residence order in his favour was in force with respect to the child **[**F15or he was the child's only (or last surviving) special guardian**]**,

the appointment shall take effect on the death of that person.

(8) Where, on the death of any person making an appointment under subsection (3) or (4)—

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(a) the child concerned has a parent with parental responsibility for him; and

(b) subsection (7)(b) does not apply,

the appointment shall take effect when the child no longer has a parent who has parental responsibility for him.

(9) Subsections (1) and (7) do not apply if the residence order referred to in paragraph (b) of those subsections was also made in favour of a surviving parent of the child.

(10) Nothing in this section shall be taken to prevent an appointment under subsection (3) or (4) being made by two or more persons acting jointly.

(11) Subject to any provision made by rules of court, no court shall exercise the High Court's inherent jurisdiction to appoint a guardian of the estate of any child.

(12) Where rules of court are made under subsection (11) they may prescribe the circumstances in which, and conditions subject to which, an appointment of such a guardian may be made.

(13) A guardian of a child may only be appointed in accordance with the provisions of this section.

Annotations:

Amendments (Textual)

F12 Words in s. 5(1)(b) substituted (30.12.2005) by 2002 c. 38, ss. 115(4)(a)(i), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F13 S. 5(1)(c) and preceding word inserted (30.12.2005) by 2002 c. 38, ss. 115(4)(a)(ii), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F14 Words in s. 5(4) inserted (30.12.2005) by 2002 c. 38, ss. 115(4)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2005/3213, **art. 2(k)**

F15 Words in s. 5(7) inserted (30.12.2005) by 2002 c. 38, ss. 115(4)(c), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

Commencement Information

I5 S. 5 except s. 5(11)(12) in force at 14.10.1991 by S.I. 1991/828, **art. 3(2)** and s. 5(11)(12) wholly in force 1.2.1992 by S.I. 1991/828, **art. 3** as amended by S.I. 1991/1990, **art. 2**.

Marginal Citations

M2 1837 c. 26.

6 Guardians: revocation and disclaimer.

(1) An appointment under section 5(3) or (4) revokes an earlier such appointment (including one made in an unrevoked will or codicil) made by the same person in respect of the same child, unless it is clear (whether as the result of an express provision in the later appointment or by any necessary implication) that the purpose of the later appointment is to appoint an additional guardian.

(2) An appointment under section 5(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person who made the appointment revokes it by a written and dated instrument which is signed—

(a) by him; or

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(b) at his direction, in his presence and in the presence of two witnesses who each attest the signature.

(3) An appointment under section 5(3) or (4) (other than one made in a will or codicil) is revoked if, with the intention of revoking the appointment, the person who made it—

(a) destroys the instrument by which it was made; or

(b) has some other person destroy that instrument in his presence.

[F16(3A) An appointment under section 5(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person appointed is the spouse of the person who made the appointment and either—

(a) a decree of a court of civil jurisdiction in England and Wales dissolves or annuls the marriage, or

(b) the marriage is dissolved or annulled and the divorce or annulment is entitled to recognition in England and Wales by virtue of Part II of the Family Law Act 1986,

unless a contrary intention appears by the appointment.**]**

[F17(3B) An appointment under section 5(3) or (4)(including one made in an unrevoked will or codicil) is revoked if the person appointed is the civil partner of the person who made the appointment and either—

(a) an order of a court of civil jurisdiction in England and Wales dissolves or annuls the civil partnership, or

(b) the civil partnership is dissolved or annulled and the dissolution or annulment is entitled to recognition in England and Wales by virtue of Chapter 3 of Part 5 of the Civil Partnership Act 2004,

unless a contrary intention appears by the appointment.**]**

(4) For the avoidance of doubt, an appointment under section 5(3) or (4) made in a will or codicil is revoked if the will or codicil is revoked.

(5) A person who is appointed as a guardian under section 5(3) or (4) may disclaim his appointment by an instrument in writing signed by him and made within a reasonable time of his first knowing that the appointment has taken effect.

(6) Where regulations are made by the Lord Chancellor prescribing the manner in which such disclaimers must be recorded, no such disclaimer shall have effect unless it is recorded in the prescribed manner.

(7) Any appointment of a guardian under section 5 may be brought to an end at any time by order of the court—

(a) on the application of any person who has parental responsibility for the child;

(b) on the application of the child concerned, with leave of the court; or

(c) in any family proceedings, if the court considers that it should be brought to an end even though no application has been made.

Annotations:

Amendments (Textual)

F16 S. 6(3A) inserted (8.11.1995 with effect as mentioned in s. 4(2) of the amending Act)) by 1995 c. 41, **ss. 4(1)(2)**

F17 S. 6(3B) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 76**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

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Commencement Information

I6 S. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

7 Welfare reports.

(1) A court considering any question with respect to a child under this Act may—

(a) ask **[**F18an officer of the Service**][**F19or a Welsh family proceedings officer**]** ; or

(b) ask a local authority to arrange for—

(i) an officer of the authority; or

(ii) such other person (other than **[**F18an officer of the Service**][**F19or a Welsh family proceedings officer**]**) as the authority considers appropriate,

to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

(2) The Lord Chancellor may **[**F20, after consulting the Lord Chief Justice,**]** make regulations specifying matters which, unless the court orders otherwise, must be dealt with in any report under this section.

(3) The report may be made in writing, or orally, as the court requires.

(4) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of—

(a) any statement contained in the report; and

(b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.

(5) It shall be the duty of the authority or **[**F18officer of the Service**][**F19or a Welsh family proceedings officer**]** to comply with any request for a report under this section.

[F21(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2).**]**

Annotations:

Amendments (Textual)

F18 Words in s. 7(1)(a)(b)(ii)(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 88(a)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

F19 Words in s. 7(1)(a)(b)(ii)(5) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 6**; S.I. 2005/700, **art. 2(2)**

F20 Words in s. 7(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4). s. 15(1), {Sch. 4 para. 204(2)}; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F21 S. 7(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4). s. 15(1), {Sch. 4 para. 204(3)}; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Commencement Information

I7 S. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: *This version of this Act contains provisions that are prospective.*
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PART II

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

General

8 Residence, contact and other orders with respect to children.

(1) In this Act —

"a contact order" means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;

"a prohibited steps order" means an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court;

"a residence order" means an order settling the arrangements to be made as to the person with whom a child is to live; and

"a specific issue order" means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) In this Act "a section 8 order" means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.

(3) For the purposes of this Act "family proceedings" means any proceedings—

(a) under the inherent jurisdiction of the High Court in relation to children; and

(b) under the enactments mentioned in subsection (4),

but does not include proceedings on an application for leave under section 100(3).

(4) The enactments are—

(a) Parts I, II and IV of this Act;

(b) the [M3]Matrimonial Causes Act 1973;

[[F22](ba) Schedule 5 to the Civil Partnership Act 2004;**]**

[[F23](c) the [M4]Domestic Violence and Matrimonial Proceedings Act 1976;

[[F24](d) the Adoption and Children Act 2002;**]]**

(e) the [M5]Domestic Proceedings and Magistrates' Courts Act 1978;

[[F25](ea) Schedule 6 to the Civil Partnership Act 2004;**]**

[[F23](f) sections 1 and 9 of the [M6]Matrimonial Homes Act 1983;**]**

(g) Part III of the [M7]Matrimonial and Family Proceedings Act 1984.

[[F26](h) the Family Law Act 1996**]**

[[F27](i) sections 11 and 12 of the Crime and Disorder Act 1998.**]**

Annotations:

Amendments (Textual)

F22 S. 8(4)(ba) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 26(1), **Sch. 27 para. 129(2)**; S.I. 2005/3175, **art. 2(2)**

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F23 S. 8(4)(c) and (f) repealed (1.10.1997) by 1996 c. 27, ss. 66(1)(3), Sch. 8 Pt. III para. 60(1), **Sch. 10** (with Sch. 9 para. 5); S.I. 1997/1892, **art. 3(1)(b)**

F24 S. 8(4)(d) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 55 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F25 S. 8(4)(ea) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 26(1), **Sch. 27 para. 129(3)**; S.I. 2005/3175, **art. 2(2)**

F26 S. 8(4)(h) inserted (1.10.1997) by 1996 c. 27, ss. 66(1), **Sch. 8 Pt. III para. 60(1)**; S.I. 1997/1892, **art. 3(a)**

F27 S. 8(4)(i) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 68**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)** (subject to arts. 5-8)

Commencement Information

I8 S. 8 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M3 1973 c. 18.

M4 1976 c. 50.

M5 1978 c. 22.

M6 1983 c. 19.

M7 1984 c. 42.

9 Restrictions on making section 8 orders.

(1) No court shall make any section 8 order, other than a residence order, with respect to a child who is in the care of a local authority.

(2) No application may be made by a local authority for a residence order or contact order and no court shall make such an order in favour of a local authority.

(3) A person who is, or was at any time within the last six months, a local authority foster parent of a child may not apply for leave to apply for a section 8 order with respect to the child unless—

(a) he has the consent of the authority;

(b) he is a relative of the child; or

(c) the child has lived with him for at least **[**F28one year**]** preceding the application.

(4) F29. . . . . .

(5) No court shall exercise its powers to make a specific issue order or prohibited steps order—

(a) with a view to achieving a result which could be achieved by making a residence or contact order; or

(b) in any way which is denied to the High Court (by section 100(2)) in the exercise of its inherent jurisdiction with respect to children.

(6) **[**F30No court shall make a specific issue order, contact order or prohibited steps order**]**will end after the child has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.

(7) No court shall make any section 8 order, other than one varying or discharging such an order, with respect to a child who has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.

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Annotations:

Amendments (Textual)

F28 Words in s. 9(3)(c) substituted (30.12.2005) by 2002 c. 38, ss. 113(a), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F29 S. 9(4) repealed (30.12.2005) by 2002 c. 38, ss. 113(b), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**; S.I. 2005/2897, **art. 2(b)**

F30 Words in s. 9(6) substituted (1.9.2009) by Children and Young Persons Act 2008 (c. 23), **ss. 37(1)**, 44; S.I. 2009/1921, **art. 2(b)**; S.I. 2009/2273, **art. 2(2)(k)**

Commencement Information

I9 S. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

10 Power of court to make section 8 orders.

(1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 8 order with respect to the child if—

(a) an application for the order has been made by a person who—

(i) is entitled to apply for a section 8 order with respect to the child; or

(ii) has obtained the leave of the court to make the application; or

(b) the court considers that the order should be made even though no such application has been made.

(2) The court may also make a section 8 order with respect to any child on the application of a person who—

(a) is entitled to apply for a section 8 order with respect to the child; or

(b) has obtained the leave of the court to make the application.

(3) This section is subject to the restrictions imposed by section 9.

(4) The following persons are entitled to apply to the court for any section 8 order with respect to a child—

(a) any parent **[**F31, guardian or special guardian**]** of the child;

[F32(aa) any person who by virtue of section 4A has parental responsibility for the child;**]**

(b) any person in whose favour a residence order is in force with respect to the child.

(5) The following persons are entitled to apply for a residence or contact order with respect to a child—

(a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;

[F33(aa) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;**]**

(b) any person with whom the child has lived for a period of at least three years;

(c) any person who—

(i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;

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(ii) in any case where the child is in the care of a local authority, has the consent of that authority; or

(iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.

[F34(5A) A local authority foster parent is entitled to apply for a residence order with respect to a child if the child has lived with him for a period of at least one year immediately preceding the application.**]**

[F35(5B) A relative of a child is entitled to apply for a residence order with respect to the child if the child has lived with the relative for a period of at least one year immediately preceding the application.**]**

(6) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 8 order shall be entitled to do so if—

(a) the order was made on his application; or

(b) in the case of a contact order, he is named in the order.

(7) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 8 order as may be prescribed in relation to that category of person.

[F36(7A) If a special guardianship order is in force with respect to a child, an application for a residence order may only be made with respect to him, if apart from this subsection the leave of the court is not required, with such leave.**]**

(8) Where the person applying for leave to make an application for a section 8 order is the child concerned, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application for the section 8 order.

(9) Where the person applying for leave to make an application for a section 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to—

(a) the nature of the proposed application for the section 8 order;

(b) the applicant's connection with the child;

(c) any risk there might be of that proposed application disrupting the child's life to such an extent that he would be harmed by it; and

(d) where the child is being looked after by a local authority—

(i) the authority's plans for the child's future; and

(ii) the wishes and feelings of the child's parents.

(10) The period of three years mentioned in subsection (5)(b) need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application.

Annotations:

Amendments (Textual)

F31 Words in s. 10(4)(a) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F32 S. 10(4)(aa) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

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F33 S. 10(5)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 77**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F34 S. 10(5A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F35 S. 10(5B) inserted (1.9.2009) by Children and Young Persons Act 2008 (c. 23), **ss. 36**, 44; S.I. 2009/1921, **art. 2(a)**; S.I. 2009/2273, **art. 2(2)(j)**

F36 S. 10(7A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(d) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

I10 S. 10 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

11 General principles and supplementary provisions.

(1) In proceedings in which any question of making a section 8 order, or any other question with respect to such an order, arises, the court shall (in the light of any rules made by virtue of subsection (2))—

(a) draw up a timetable with a view to determining the question without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may—

(a) specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and

(b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.

(3) Where a court has power to make a section 8 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.

(4) Where a residence order is made in favour of two or more persons who do not themselves all live together, the order may specify the periods during which the child is to live in the different households concerned.

(5) Where—

(a) a residence order has been made with respect to a child; and

(b) as a result of the order the child lives, or is to live, with one of two parents who each have parental responsibility for him,

the residence order shall cease to have effect if the parents live together for a continuous period of more than six months.

(6) A contact order which requires the parent with whom a child lives to allow the child to visit, or otherwise have contact with, his other parent shall cease to have effect if the parents live together for a continuous period of more than six months.

(7) A section 8 order may—

(a) contain directions about how it is to be carried into effect;

(b) impose conditions which must be complied with by any person—

(i) in whose favour the order is made;

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(ii) who is a parent of the child concerned;

(iii) who is not a parent of his but who has parental responsibility for him; or

(iv) with whom the child is living,

and to whom the conditions are expressed to apply;

(c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period;

(d) make such incidental, supplemental or consequential provision as the court thinks fit.

Annotations:

Modifications etc. (not altering text)

C10 S. 11(3) restricted (14. 10. 1991) by S.I. 1991/1395, r.28

Commencement Information

I11 S. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F37 11A Contact activity directions

(1) This section applies in proceedings in which the court is considering whether to make provision about contact with a child by making—

(a) a contact order with respect to the child, or

(b) an order varying or discharging a contact order with respect to the child.

(2) The court may make a contact activity direction in connection with that provision about contact.

(3) A contact activity direction is a direction requiring an individual who is a party to the proceedings to take part in an activity that promotes contact with the child concerned.

(4) The direction is to specify the activity and the person providing the activity.

(5) The activities that may be so required include, in particular—

(a) programmes, classes and counselling or guidance sessions of a kind that—

(i) may assist a person as regards establishing, maintaining or improving contact with a child;

(ii) may, by addressing a person's violent behaviour, enable or facilitate contact with a child;

(b) sessions in which information or advice is given as regards making or operating arrangements for contact with a child, including making arrangements by means of mediation.

(6) No individual may be required by a contact activity direction—

(a) to undergo medical or psychiatric examination, assessment or treatment;

(b) to take part in mediation.

(7) A court may not on the same occasion—

(a) make a contact activity direction, and

(b) dispose finally of the proceedings as they relate to contact with the child concerned.

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(8) Subsection (2) has effect subject to the restrictions in sections 11B and 11E.

(9) In considering whether to make a contact activity direction, the welfare of the child concerned is to be the court's paramount consideration.**]**

Annotations:

Amendments (Textual)

F37 S. 11A inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

[F38 11B Contact activity directions: further provision

(1) A court may not make a contact activity direction in any proceedings unless there is a dispute as regards the provision about contact that the court is considering whether to make in the proceedings.

(2) A court may not make a contact activity direction requiring an individual who is a child to take part in an activity unless the individual is a parent of the child in relation to whom the court is considering provision about contact.

(3) A court may not make a contact activity direction in connection with the making, variation or discharge of a contact order, if the contact order is, or would if made be, an excepted order.

(4) A contact order with respect to a child is an excepted order if—

(a) it is made in proceedings that include proceedings on an application for a relevant adoption order in respect of the child; or

(b) it makes provision as regards contact between the child and a person who would be a parent or relative of the child but for the child's adoption by an order falling within subsection (5).

(5) An order falls within this subsection if it is—

(a) a relevant adoption order;

(b) an adoption order, within the meaning of section 72(1) of the Adoption Act 1976, other than an order made by virtue of section 14 of that Act on the application of a married couple one of whom is the mother or the father of the child;

(c) a Scottish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made—

(i) by virtue of section 14 of the Adoption (Scotland) Act 1978 on the application of a married couple one of whom is the mother or the father of the child, or

(ii) by virtue of section 15(1)(aa) of that Act; or

(d) a Northern Irish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made by virtue of Article 14 of the Adoption (Northern Ireland) Order 1987 on the application of a married couple one of whom is the mother or the father of the child.

(6) A relevant adoption order is an adoption order, within the meaning of section 46(1) of the Adoption and Children Act 2002, other than an order made—

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(a) on an application under section 50 of that Act by a couple (within the meaning of that Act) one of whom is the mother or the father of the person to be adopted, or

(b) on an application under section 51(2) of that Act.

(7) A court may not make a contact activity direction in relation to an individual unless the individual is habitually resident in England and Wales; and a direction ceases to have effect if the individual subject to the direction ceases to be habitually resident in England and Wales.**]**

Annotations:

Amendments (Textual)

F38 S. 11B inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

[F39 11C Contact activity conditions

(1) This section applies if in any family proceedings the court makes—

(a) a contact order with respect to a child, or

(b) an order varying a contact order with respect to a child.

(2) The contact order may impose, or the contact order may be varied so as to impose, a condition (a "contact activity condition") requiring an individual falling within subsection (3) to take part in an activity that promotes contact with the child concerned.

(3) An individual falls within this subsection if he is—

(a) for the purposes of the contact order so made or varied, the person with whom the child concerned lives or is to live;

(b) the person whose contact with the child concerned is provided for in that order; or

(c) a person upon whom that order imposes a condition under section 11(7)(b).

(4) The condition is to specify the activity and the person providing the activity.

(5) Subsections (5) and (6) of section 11A have effect as regards the activities that may be required by a contact activity condition as they have effect as regards the activities that may be required by a contact activity direction.

(6) Subsection (2) has effect subject to the restrictions in sections 11D and 11E.**]**

Annotations:

Amendments (Textual)

F39 S. 11C inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

[F40 11D Contact activity conditions: further provision

(1) A contact order may not impose a contact activity condition on an individual who is a child unless the individual is a parent of the child concerned.

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(2) If a contact order is an excepted order (within the meaning given by section 11B(4)), it may not impose (and it may not be varied so as to impose) a contact activity condition.

(3) A contact order may not impose a contact activity condition on an individual unless the individual is habitually resident in England and Wales; and a condition ceases to have effect if the individual subject to the condition ceases to be habitually resident in England and Wales.**]**

Annotations:

Amendments (Textual)

F40 S. 11D inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

[F41 11E Contact activity directions and conditions: making

(1) Before making a contact activity direction (or imposing a contact activity condition by means of a contact order), the court must satisfy itself as to the matters falling within subsections (2) to (4).

(2) The first matter is that the activity proposed to be specified is appropriate in the circumstances of the case.

(3) The second matter is that the person proposed to be specified as the provider of the activity is suitable to provide the activity.

(4) The third matter is that the activity proposed to be specified is provided in a place to which the individual who would be subject to the direction (or the condition) can reasonably be expected to travel.

(5) Before making such a direction (or such an order), the court must obtain and consider information about the individual who would be subject to the direction (or the condition) and the likely effect of the direction (or the condition) on him.

(6) Information about the likely effect of the direction (or the condition) may, in particular, include information as to—

(a) any conflict with the individual's religious beliefs;

(b) any interference with the times (if any) at which he normally works or attends an educational establishment.

(7) The court may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) to (5); and it shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any such request.

(8) In this section "specified" means specified in a contact activity direction (or in a contact activity condition).**]**

Annotations:

Amendments (Textual)

F41 S. 11E inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

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[F42 11F Contact activity directions and conditions: financial assistance

(1) The Secretary of State may by regulations make provision authorising him to make payments to assist individuals falling within subsection (2) in paying relevant charges or fees.

(2) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child, not being a child ordinarily resident in Wales.

(3) The National Assembly for Wales may by regulations make provision authorising it to make payments to assist individuals falling within subsection (4) in paying relevant charges or fees.

(4) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child who is ordinarily resident in Wales.

(5) A relevant charge or fee, in relation to an activity required by a contact activity direction or condition, is a charge or fee in respect of the activity payable to the person providing the activity.

(6) Regulations under this section may provide that no assistance is available to an individual unless—

(a) the individual satisfies such conditions as regards his financial resources as may be set out in the regulations;

(b) the activity in which the individual is required by a contact activity direction or condition to take part is provided to him in England or Wales;

(c) where the activity in which the individual is required to take part is provided to him in England, it is provided by a person who is for the time being approved by the Secretary of State as a provider of activities required by a contact activity direction or condition;

(d) where the activity in which the individual is required to take part is provided to him in Wales, it is provided by a person who is for the time being approved by the National Assembly for Wales as a provider of activities required by a contact activity direction or condition.

(7) Regulations under this section may make provision—

(a) as to the maximum amount of assistance that may be paid to or in respect of an individual as regards an activity in which he is required by a contact activity direction or condition to take part;

(b) where the amount may vary according to an individual's financial resources, as to the method by which the amount is to be determined;

(c) authorising payments by way of assistance to be made directly to persons providing activities required by a contact activity direction or condition.**]**

Annotations:

Amendments (Textual)

F42 S. 11F inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

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[F43 11G Contact activity directions and conditions: monitoring

(1) This section applies if in any family proceedings the court—

(a) makes a contact activity direction in relation to an individual, or

(b) makes a contact order that imposes, or varies a contact order so as to impose, a contact activity condition on an individual.

(2) The court may on making the direction (or imposing the condition by means of a contact order) ask an officer of the Service or a Welsh family proceedings officer—

(a) to monitor, or arrange for the monitoring of, the individual's compliance with the direction (or the condition);

(b) to report to the court on any failure by the individual to comply with the direction (or the condition).

(3) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).**]**

Annotations:

Amendments (Textual)

F43 S. 11G inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), **ss. 1**, 17; S.I. 2008/2870, **art. 2(1)**

[F44 11H Monitoring contact

(1) This section applies if in any family proceedings the court makes—

(a) a contact order with respect to a child in favour of a person, or

(b) an order varying such a contact order.

(2) The court may ask an officer of the Service or a Welsh family proceedings officer—

(a) to monitor whether an individual falling within subsection (3) complies with the contact order (or the contact order as varied);

(b) to report to the court on such matters relating to the individual's compliance as the court may specify in the request.

(3) An individual falls within this subsection if the contact order so made (or the contact order as so varied)—

(a) requires the individual to allow contact with the child concerned;

(b) names the individual as having contact with the child concerned; or

(c) imposes a condition under section 11(7)(b) on the individual.

(4) If the contact order (or the contact order as varied) includes a contact activity condition, a request under subsection (2) is to be treated as relating to the provisions of the order other than the contact activity condition.

(5) The court may make a request under subsection (2)—

(a) on making the contact order (or the order varying the contact order), or

(b) at any time during the subsequent course of the proceedings as they relate to contact with the child concerned.

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(6) In making a request under subsection (2), the court is to specify the period for which the officer of the Service or Welsh family proceedings officer is to monitor compliance with the order; and the period specified may not exceed twelve months.

(7) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).

(8) The court may order any individual falling within subsection (3) to take such steps as may be specified in the order with a view to enabling the officer of the Service or Welsh family proceedings officer to comply with the court's request under subsection (2).

(9) But the court may not make an order under subsection (8) with respect to an individual who is a child unless he is a parent of the child with respect to whom the order falling within subsection (1) was made.

(10) A court may not make a request under subsection (2) in relation to a contact order that is an excepted order (within the meaning given by section 11B(4)).**]**

Annotations:

Amendments (Textual)

F44 S. 11H inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 2**, 17; S.I. 2008/2870, **art. 2(2)(b)**

[F45 11I Contact orders: warning notices

Where the court makes (or varies) a contact order, it is to attach to the contact order (or the order varying the contact order) a notice warning of the consequences of failing to comply with the contact order.**]**

Annotations:

Amendments (Textual)

F45 S. 11I inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 3**, 17 (with s. 8); S.I. 2008/2870, **art. 2(2)(b)**

[F46 11J Enforcement orders

(1) This section applies if a contact order with respect to a child has been made.

(2) If the court is satisfied beyond reasonable doubt that a person has failed to comply with the contact order, it may make an order (an "enforcement order") imposing on the person an unpaid work requirement.

(3) But the court may not make an enforcement order if it is satisfied that the person had a reasonable excuse for failing to comply with the contact order.

(4) The burden of proof as to the matter mentioned in subsection (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.

(5) The court may make an enforcement order in relation to the contact order only on the application of—

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(a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;

(b) the person whose contact with the child concerned is provided for in the contact order;

(c) any individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or

(d) the child concerned.

(6) Where the person proposing to apply for an enforcement order in relation to a contact order is the child concerned, the child must obtain the leave of the court before making such an application.

(7) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.

(8) Subsection (2) has effect subject to the restrictions in sections 11K and 11L.

(9) The court may suspend an enforcement order for such period as it thinks fit.

(10) Nothing in this section prevents a court from making more than one enforcement order in relation to the same person on the same occasion.

(11) Proceedings in which any question of making an enforcement order, or any other question with respect to such an order, arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.

(12) In Schedule A1—

(a) Part 1 makes provision as regards an unpaid work requirement;

(b) Part 2 makes provision in relation to the revocation and amendment of enforcement orders and failure to comply with such orders.

(13) This section is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to contact orders.**]**

Annotations:

Amendments (Textual)

F46 S. 11J inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 4(1)**, 17 (with s. 8); S.I. 2008/2870, **art. 2(2)(c)**

[F47 11K Enforcement orders: further provision

(1) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—

(a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;

(b) in any other case, a notice under section 11I relating to the contact order.

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(2) A court may not make an enforcement order against a person in respect of any failure to comply with a contact order occurring before the person attained the age of 18.

(3) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).

(4) A court may not make an enforcement order against a person unless the person is habitually resident in England and Wales; and an enforcement order ceases to have effect if the person subject to the order ceases to be habitually resident in England and Wales.**]**

Annotations:

Amendments (Textual)

F47 S. 11K inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 4(1)**, 17 (with s. 8); S.I. 2008/2870, **art. 2(2)(c)**

[F48 11L Enforcement orders: making

(1) Before making an enforcement order as regards a person in breach of a contact order, the court must be satisfied that—

(a) making the enforcement order proposed is necessary to secure the person's compliance with the contact order or any contact order that has effect in its place;

(b) the likely effect on the person of the enforcement order proposed to be made is proportionate to the seriousness of the breach of the contact order.

(2) Before making an enforcement order, the court must satisfy itself that provision for the person to work under an unpaid work requirement imposed by an enforcement order can be made in the local justice area in which the person in breach resides or will reside.

(3) Before making an enforcement order as regards a person in breach of a contact order, the court must obtain and consider information about the person and the likely effect of the enforcement order on him.

(4) Information about the likely effect of the enforcement order may, in particular, include information as to—

(a) any conflict with the person's religious beliefs;

(b) any interference with the times (if any) at which he normally works or attends an educational establishment.

(5) A court that proposes to make an enforcement order may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) and (3).

(6) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.

(7) In making an enforcement order in relation to a contact order, a court must take into account the welfare of the child who is the subject of the contact order.**]**

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Annotations:

Amendments (Textual)

F48 S. 11L inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

[F49 11M Enforcement orders: monitoring

(1) On making an enforcement order in relation to a person, the court is to ask an officer of the Service or a Welsh family proceedings officer—

(a) to monitor, or arrange for the monitoring of, the person's compliance with the unpaid work requirement imposed by the order;

(b) to report to the court if a report under paragraph 8 of Schedule A1 is made in relation to the person;

(c) to report to the court on such other matters relating to the person's compliance as may be specified in the request;

(d) to report to the court if the person is, or becomes, unsuitable to perform work under the requirement.

(2) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.**]**

Annotations:

Amendments (Textual)

F49 S. 11M inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

[F50 11N Enforcement orders: warning notices

Where the court makes an enforcement order, it is to attach to the order a notice warning of the consequences of failing to comply with the order.**]**

Annotations:

Amendments (Textual)

F50 S. 11N inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

[F51 11O Compensation for financial loss

(1) This section applies if a contact order with respect to a child has been made.

(2) If the court is satisfied that—

(a) an individual has failed to comply with the contact order, and

(b) a person falling within subsection (6) has suffered financial loss by reason of the breach,

it may make an order requiring the individual in breach to pay the person compensation in respect of his financial loss.

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(3) But the court may not make an order under subsection (2) if it is satisfied that the individual in breach had a reasonable excuse for failing to comply with the contact order.

(4) The burden of proof as to the matter mentioned in subsection (3) lies on the individual claiming to have had a reasonable excuse.

(5) An order under subsection (2) may be made only on an application by the person who claims to have suffered financial loss.

(6) A person falls within this subsection if he is—

(a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;

(b) the person whose contact with the child concerned is provided for in the contact order;

(c) an individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or

(d) the child concerned.

(7) Where the person proposing to apply for an order under subsection (2) is the child concerned, the child must obtain the leave of the court before making such an application.

(8) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.

(9) The amount of compensation is to be determined by the court, but may not exceed the amount of the applicant's financial loss.

(10) In determining the amount of compensation payable by the individual in breach, the court must take into account the individual's financial circumstances.

(11) An amount ordered to be paid as compensation may be recovered by the applicant as a civil debt due to him.

(12) Subsection (2) has effect subject to the restrictions in section 11P.

(13) Proceedings in which any question of making an order under subsection (2) arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.

(14) In exercising its powers under this section, a court is to take into account the welfare of the child concerned.**]**

Annotations:

Amendments (Textual)

F51 S. 11O inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 5**, 17; S.I. 2008/2870, **art. 2(2)(d)**

[F52 11P Orders under section 11O(2): further provision

(1) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order unless it is

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satisfied that before the failure occurred the individual had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—

(a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;

(b) in any other case, a notice under section 11I relating to the contact order.

(2) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order where the failure occurred before the individual attained the age of 18.

(3) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).**]**

Annotations:

Amendments (Textual)

F52 S. 11P inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), **ss. 5**, 17 (with s. 8); S.I. 2008/2870, **art. 2(2)(d)**

12 Residence orders and parental responsibility.

(1) Where the court makes a residence order in favour of the father of a child it shall, if the father would not otherwise have parental responsibility for the child, also make an order under section 4 giving him that responsibility.

[F53(1A) Where the court makes a residence order in favour of a woman who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 it shall, if that woman would not otherwise have parental responsibility for the child, also make an order under section 4ZA giving her that responsibility.**]**

(2) Where the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned that person shall have parental responsibility for the child while the residence order remains in force.

(3) Where a person has parental responsibility for a child as a result of subsection (2), he shall not have the right—

(a) F54. . . . . .

(b) to agree, or refuse to agree, to the making of an adoption order, or an order under **[**F55section 84 of the Adoption and Children Act 2002**]**, with respect to the child; or

(c) to appoint a guardian for the child.

(4) Where subsection (1) **[**F56or (1A)**]** requires the court to make an order under section 4 **[**F57or 4ZA**]** in respect of the **[**F58parent**]** of a child, the court shall not bring that order to an end at any time while the residence order concerned remains in force.

(5) F59. . . . . .

(6) F60. . . . . .

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Annotations:

Amendments (Textual)

F53 S. 12(1A) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 28(2)**; S.I. 2009/479, **art. 6(1)(e)**

F54 S. 12(3)(a) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 57(a), Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(a)**

F55 Words in s. 12(3)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 57(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F56 Words in s. 12(4) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 28(3)(a)**; S.I. 2009/479, **art. 6(1)(e)**

F57 Words in s. 12(4) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 28(3)(b)**; S.I. 2009/479, **art. 6(1)(e)**

F58 Word in s. 12(4) subtituted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 28(3)(c)**; S.I. 2009/479, **art. 6(1)(e)**; S.I. 2009/479, **art. 6(1)(e)**

F59 S. 12(5) repealed (1.9.2009) by Children and Young Persons Act 2008 (c. 23), ss. 37(2), 42, 44, **Sch. 4**; S.I. 2009/1921, **art. 2(b)(d)**; S.I. 2009/2273, **art. 2(2)(k)(m)(i)**

F60 S. 12(6) repealed (1.9.2009) by Children and Young Persons Act 2008 (c. 23), ss. 37(2), 42, 44, **Sch. 4**; S.I. 2009/1921, **art. 2(b)(d)**; S.I. 2009/2273, **art. 2(2)(k)(m)(i)**

Commencement Information

I12 S. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

13 Change of child's name or removal from jurisdiction.

(1) Where a residence order is in force with respect to a child, no person may—

(a) cause the child to be known by a new surname; or

(b) remove him from the United Kingdom;

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(2) Subsection (1)(b) does not prevent the removal of a child, for a period of less than one month, by the person in whose favour the residence order is made.

(3) In making a residence order with respect to a child the court may grant the leave required by subsection (1)(b), either generally or for specified purposes.

Annotations:

Commencement Information

I13 S. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

14 Enforcement of residence orders.

(1) Where—

(a) a residence order is in force with respect to a child in favour of any person; and

(b) any other person (including one in whose favour the order is also in force) is in breach of the arrangements settled by that order,

the person mentioned in paragraph (a) may, as soon as the requirement in subsection (2) is complied with, enforce the order under section 63(3) of the

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[M8]Magistrates' Courts Act 1980 as if it were an order requiring the other person to produce the child to him.

(2) The requirement is that a copy of the residence order has been served on the other person.

(3) Subsection (1) is without prejudice to any other remedy open to the person in whose favour the residence order is in force.

Annotations:

Commencement Information
I14 S. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M8 1980 c. 43.

[F61Special guardianship

Annotations:

Amendments (Textual)
F61 Ss. 14A-14G and heading inserted (30.12.2005) by 2002 c. 38, **ss. 115(1)**, 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, {art. 2k}

[F62]14A Special guardianship orders

(1) A "special guardianship order" is an order appointing one or more individuals to be a child's "special guardian" (or special guardians).

(2) A special guardian—
(a) must be aged eighteen or over; and
(b) must not be a parent of the child in question,
and subsections (3) to (6) are to be read in that light.

(3) The court may make a special guardianship order with respect to any child on the application of an individual who—
(a) is entitled to make such an application with respect to the child; or
(b) has obtained the leave of the court to make the application,
or on the joint application of more than one such individual.

(4) Section 9(3) applies in relation to an application for leave to apply for a special guardianship order as it applies in relation to an application for leave to apply for a section 8 order.

(5) The individuals who are entitled to apply for a special guardianship order with respect to a child are—
(a) any guardian of the child;
(b) any individual in whose favour a residence order is in force with respect to the child;

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(c) any individual listed in subsection (5)(b) or (c) of section 10 (as read with subsection (10) of that section);

(d) a local authority foster parent with whom the child has lived for a period of at least one year immediately preceding the application.**[**F63;

(e) a relative with whom the child has lived for a period of at least one year immediately preceding the application.**]**

(6) The court may also make a special guardianship order with respect to a child in any family proceedings in which a question arises with respect to the welfare of the child if—

(a) an application for the order has been made by an individual who falls within subsection (3)(a) or (b) (or more than one such individual jointly); or

(b) the court considers that a special guardianship order should be made even though no such application has been made.

(7) No individual may make an application under subsection (3) or (6)(a) unless, before the beginning of the period of three months ending with the date of the application, he has given written notice of his intention to make the application—

(a) if the child in question is being looked after by a local authority, to that local authority, or

(b) otherwise, to the local authority in whose area the individual is ordinarily resident.

(8) On receipt of such a notice, the local authority must investigate the matter and prepare a report for the court dealing with—

(a) the suitability of the applicant to be a special guardian;

(b) such matters (if any) as may be prescribed by the Secretary of State; and

(c) any other matter which the local authority consider to be relevant.

(9) The court may itself ask a local authority to conduct such an investigation and prepare such a report, and the local authority must do so.

(10) The local authority may make such arrangements as they see fit for any person to act on their behalf in connection with conducting an investigation or preparing a report referred to in subsection (8) or (9).

(11) The court may not make a special guardianship order unless it has received a report dealing with the matters referred to in subsection (8).

(12) Subsections (8) and (9) of section 10 apply in relation to special guardianship orders as they apply in relation to section 8 orders.

(13) This section is subject to section 29(5) and (6) of the Adoption and Children Act 2002.

Annotations:

Amendments (Textual)

F62 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F63 S. 14A(5)(e) inserted (1.9.2009) by Children and Young Persons Act 2008 (c. 23), **ss. 38**, 44; S.I. 2009/1921, **art. 2(c)**; S.I. 2009/2273, **art. 2(2)(l)**

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Modifications etc. (not altering text)

C11 S. 14A(7) applied (with modifications) (30.12.2005) by 2002 c. 38, ss. 29(6), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(c)**

F64 14B Special guardianship orders: making

(1) Before making a special guardianship order, the court must consider whether, if the order were made—

(a) a contact order should also be made with respect to the child, F65...

(b) any section 8 order in force with respect to the child should be varied or discharged.

[F66(c) where a contact order made with respect to the child is not discharged, any enforcement order relating to that contact order should be revoked, and

(d) where a contact activity direction has been made as regards contact with the child and is in force, that contact activity direction should be discharged.**]**

(2) On making a special guardianship order, the court may also—

(a) give leave for the child to be known by a new surname;

(b) grant the leave required by section 14C(3)(b), either generally or for specified purposes.

Annotations:

Amendments (Textual)

F64 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F65 Word in s. 14B(1)(a) repealed (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, Sch. 2 para. 8(a), **Sch. 3**; S.I. 2008/2870, **art. 2(2)(e)(f)**

F66 S. 14B(1)(c)(d) inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 8(b)**; S.I. 2008/2870, **art. 2(2)(e)**

F67 14C Special guardianship orders: effect

(1) The effect of a special guardianship order is that while the order remains in force—

(a) a special guardian appointed by the order has parental responsibility for the child in respect of whom it is made; and

(b) subject to any other order in force with respect to the child under this Act, a special guardian is entitled to exercise parental responsibility to the exclusion of any other person with parental responsibility for the child (apart from another special guardian).

(2) Subsection (1) does not affect—

(a) the operation of any enactment or rule of law which requires the consent of more than one person with parental responsibility in a matter affecting the child; or

(b) any rights which a parent of the child has in relation to the child's adoption or placement for adoption.

(3) While a special guardianship order is in force with respect to a child, no person may—

(a) cause the child to be known by a new surname; or

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(b) remove him from the United Kingdom,

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(4) Subsection (3)(b) does not prevent the removal of a child, for a period of less than three months, by a special guardian of his.

(5) If the child with respect to whom a special guardianship order is in force dies, his special guardian must take reasonable steps to give notice of that fact to—

(a) each parent of the child with parental responsibility; and

(b) each guardian of the child,

but if the child has more than one special guardian, and one of them has taken such steps in relation to a particular parent or guardian, any other special guardian need not do so as respects that parent or guardian.

(6) This section is subject to section 29(7) of the Adoption and Children Act 2002.

Annotations:

Amendments (Textual)

F67 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

Modifications etc. (not altering text)

C12 S. 14C(1)(b) modified (30.12.2005) by 2002 c. 38, ss. 29(7)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(c)**

C13 S. 14C(3)(4) excluded (30.12.2005) by 2002 c. 38, ss. 29(7)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(c)**

F68 14D Special guardianship orders: variation and discharge

(1) The court may vary or discharge a special guardianship order on the application of—

(a) the special guardian (or any of them, if there are more than one);

(b) any parent or guardian of the child concerned;

(c) any individual in whose favour a residence order is in force with respect to the child;

(d) any individual not falling within any of paragraphs (a) to (c) who has, or immediately before the making of the special guardianship order had, parental responsibility for the child;

(e) the child himself; or

(f) a local authority designated in a care order with respect to the child.

(2) In any family proceedings in which a question arises with respect to the welfare of a child with respect to whom a special guardianship order is in force, the court may also vary or discharge the special guardianship order if it considers that the order should be varied or discharged, even though no application has been made under subsection (1).

(3) The following must obtain the leave of the court before making an application under subsection (1)—

(a) the child;

(b) any parent or guardian of his;

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(c) any step-parent of his who has acquired, and has not lost, parental responsibility for him by virtue of section 4A;

(d) any individual falling within subsection (1)(d) who immediately before the making of the special guardianship order had, but no longer has, parental responsibility for him.

(4) Where the person applying for leave to make an application under subsection (1) is the child, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application under subsection (1).

(5) The court may not grant leave to a person falling within subsection (3)(b)(c) or (d) unless it is satisfied that there has been a significant change in circumstances since the making of the special guardianship order.

Annotations:

Amendments (Textual)

F68 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F69 14E Special guardianship orders: supplementary

(1) In proceedings in which any question of making, varying or discharging a special guardianship order arises, the court shall (in the light of any rules made by virtue of subsection (3))—

(a) draw up a timetable with a view to determining the question without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.

(2) Subsection (1) applies also in relation to proceedings in which any other question with respect to a special guardianship order arises.

(3) The power to make rules in subsection (2) of section 11 applies for the purposes of this section as it applies for the purposes of that.

(4) A special guardianship order, or an order varying one, may contain provisions which are to have effect for a specified period.

(5) Section 11(7) (apart from paragraph (c)) applies in relation to special guardianship orders and orders varying them as it applies in relation to section 8 orders.

Annotations:

Amendments (Textual)

F69 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F70 14F Special guardianship support services

(1) Each local authority must make arrangements for the provision within their area of special guardianship support services, which means—

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(a) counselling, advice and information; and

(b) such other services as are prescribed,

in relation to special guardianship.

(2) The power to make regulations under subsection (1)(b) is to be exercised so as to secure that local authorities provide financial support.

(3) At the request of any of the following persons—

(a) a child with respect to whom a special guardianship order is in force;

(b) a special guardian;

(c) a parent;

(d) any other person who falls within a prescribed description,

a local authority may carry out an assessment of that person's needs for special guardianship support services (but, if the Secretary of State so provides in regulations, they must do so if he is a person of a prescribed description, or if his case falls within a prescribed description, or if both he and his case fall within prescribed descriptions).

(4) A local authority may, at the request of any other person, carry out an assessment of that person's needs for special guardianship support services.

(5) Where, as a result of an assessment, a local authority decide that a person has needs for special guardianship support services, they must then decide whether to provide any such services to that person.

(6) If—

(a) a local authority decide to provide any special guardianship support services to a person, and

(b) the circumstances fall within a prescribed description,

the local authority must prepare a plan in accordance with which special guardianship support services are to be provided to him, and keep the plan under review.

(7) The Secretary of State may by regulations make provision about assessments, preparing and reviewing plans, the provision of special guardianship support services in accordance with plans and reviewing the provision of special guardianship support services.

(8) The regulations may in particular make provision—

(a) about the type of assessment which is to be carried out, or the way in which an assessment is to be carried out;

(b) about the way in which a plan is to be prepared;

(c) about the way in which, and the time at which, a plan or the provision of special guardianship support services is to be reviewed;

(d) about the considerations to which a local authority are to have regard in carrying out an assessment or review or preparing a plan;

(e) as to the circumstances in which a local authority may provide special guardianship support services subject to conditions (including conditions as to payment for the support or the repayment of financial support);

(f) as to the consequences of conditions imposed by virtue of paragraph (e) not being met (including the recovery of any financial support provided);

(g) as to the circumstances in which this section may apply to a local authority in respect of persons who are outside that local authority's area;

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(h) as to the circumstances in which a local authority may recover from another local authority the expenses of providing special guardianship support services to any person.

(9) A local authority may provide special guardianship support services (or any part of them) by securing their provision by—

(a) another local authority; or

(b) a person within a description prescribed in regulations of persons who may provide special guardianship support services,

and may also arrange with any such authority or person for that other authority or that person to carry out the local authority's functions in relation to assessments under this section.

(10) A local authority may carry out an assessment of the needs of any person for the purposes of this section at the same time as an assessment of his needs is made under any other provision of this Act or under any other enactment.

(11) Section 27 (co-operation between authorities) applies in relation to the exercise of functions of a local authority under this section as it applies in relation to the exercise of functions of a local authority under Part 3.

Annotations:

Amendments (Textual)

F70 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

[F71]14G Special guardianship support services: representations

. . . . . .

Annotations:

Amendments (Textual)

F71 Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F72 S. 14G ceases to have effect (17.1.2005 for E. and 30.12.2005 for W.) by virtue of Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 117(2)**; S.I. 2005/38, **art. 2(b)**; S.I. 2005/3285, **art. 2(1)**; and s. 14G repealed (prosp.) by that same amending Act, s. 196, {Sch. 14 Pt. 2}

Financial relief

15 Orders for financial relief with respect to children.

(1) Schedule 1 (which consists primarily of the re-enactment, with consequential amendments and minor modifications, of provisions of **[**[F73]section 6 of Family Law Reform Act 1969**]**the Guardianship of Minors Acts 1971 and 1973, the [M9]Children Act 1975 and of sections 15 and 16 of the [M10]Family Law Reform Act 1987) makes provision in relation to financial relief for children.

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(2) The powers of a magistrates' court under section 60 of the Magistrates' Courts Act 1980 to revoke, revive or vary an order for the periodical payment of money **[**F74and the power of the clerk of a magistrates' court to vary such an order**]** shall not apply in relation to an order made under Schedule 1.

Annotations:

Amendments (Textual)

F73 Words in s. 15(1) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 10(1)**; S.I. 1991/1883, art. 3, **Sch.**

F74 Words in s. 15(2) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para.10**; S.I. 1992/455, **art. 2**.

Commencement Information

I15 S. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M9 1975 c. 72.

M10 1987 c. 42.

Family assistance orders

16 Family assistance orders.

(1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make an order requiring—

(a) **[**F75an officer of the Service**]****[**F76or a Welsh family proceedings officer**]** to be made available; or

(b) a local authority to make an officer of the authority available,

to advise, assist and (where appropriate) befriend any person named in the order.

(2) The persons who may be named in an order under this section ("a family assistance order") are—

(a) any parent **[**F77, guardian or special guardian**]** of the child;

(b) any person with whom the child is living or in whose favour a contact order is in force with respect to the child;

(c) the child himself.

(3) No court may make a family assistance order unless—

(a) F78 . . . . . .

(b) it has obtained the consent of every person to be named in the order other than the child.

(4) A family assistance order may direct—

(a) the person named in the order; or

(b) such of the persons named in the order as may be specified in the order,

to take such steps as may be so specified with a view to enabling the officer concerned to be kept informed of the address of any person named in the order and to be allowed to visit any such person.

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[F79(4A) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a contact order made with respect to the child, the family assistance order may direct the officer concerned to give advice and assistance as regards establishing, improving and maintaining contact to such of the persons named in the order as may be specified in the order.**]**

(5) Unless it specifies a shorter period, a family assistance order shall have effect for a period of **[**F80twelve months**]** beginning with the day on which it is made.

[F81(6) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a section 8 order made with respect to the child, the family assistance order may direct the officer concerned to report to the court on such matters relating to the section 8 order as the court may require (including the question whether the section 8 order ought to be varied or discharged).**]**

(7) A family assistance order shall not be made so as to require a local authority to make an officer of theirs available unless—

(a) the authority agree; or

(b) the child concerned lives or will live within their area.

F82(8) . . . . . .

(9) . . . . . .

Annotations:

Amendments (Textual)

F75 Words in s. 16(1)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 89(a)**; S.I. 2001/919, **art. 2(f)(ii)**

F76 Words in s. 16(1) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 7**; S.I. 2005/700, **art. 2(2)**

F77 Words in s. 16(2)(a) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 58 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F78 S. 16(3)(a) repealed (1.10.2007 for certain purposes and 8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 6(2), 15, 17, **Sch. 3**; S.I. 2007/2287, **art. 2(2)(a)(d)**; S.I. 2008/2870, **art. 2(2)(f)**

F79 S. 16(4A) inserted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 6(3)**, 17; S.I. 2007/2287, **art. 2(2)(a)**

F80 Words in s. 16(5) substituted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 6(4)**, 17; S.I. 2007/2287, **art. 2(2)(a)**

F81 S. 16(6) substituted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 6(5)**, 17; S.I. 2007/2287, **art. 2(2)(a)**

F82 S. 16(8)(9) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 89(b), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

Commencement Information

I16 S. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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PROSPECTIVE

[F83 16A Risk assessments

(1) This section applies to the following functions of officers of the Service or Welsh family proceedings officers—

(a) any function in connection with family proceedings in which the court has power to make an order under this Part with respect to a child or in which a question with respect to such an order arises;

(b) any function in connection with an order made by the court in such proceedings.

(2) If, in carrying out any function to which this section applies, an officer of the Service or a Welsh family proceedings officer is given cause to suspect that the child concerned is at risk of harm, he must—

(a) make a risk assessment in relation to the child, and

(b) provide the risk assessment to the court.

(3) A risk assessment, in relation to a child who is at risk of suffering harm of a particular sort, is an assessment of the risk of that harm being suffered by the child.**]**

Annotations:

Amendments (Textual)

F83 S. 16A inserted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 7**, 17; S.I. 2007/2287, **art. 2(2)(b)**

PART III

LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

Provision of services for children and their families

17 Provision of services for children in need, their families and others.

(1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—

(a) to safeguard and promote the welfare of children within their area who are in need; and

(b) so far as is consistent with that duty, to promote the upbringing of such children by their families,

by providing a range and level of services appropriate to those children's needs.

(2) For the purpose principally of facilitating the discharge of their general duty under this section, every local authority shall have the specific duties and powers set out in Part 1 of Schedule 2.

(3) Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any

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member of his family, if it is provided with a view to safeguarding or promoting the child's welfare.

(4) The **[**F84"appropriate national authority**]** may by order amend any provision of Part I of Schedule 2 or add any further duty or power to those for the time being mentioned there.

[F85(4A) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—

(a) ascertain the child's wishes and feelings regarding the provision of those services; and

(b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.**]**

(5) Every local authority—

(a) shall facilitate the provision by others (including in particular voluntary organisations) of services which the authority have power to provide by virtue of this section, or section 18, 20, **[**F8623, 23B to 23D, 24A or 24B**]**; and

(b) may make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.

(6) The services provided by a local authority in the exercise of functions conferred on them by this section may include **[**F87providing accommodation and**]** giving assistance in kind or, in exceptional circumstances, in cash.

(7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).

(8) Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of his parents.

(9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support **[**F88under**][**F89 Part VII of the Social Security Contributions and Benefits Act 1992**][**F90, of any element of child tax credit other than the family element, of working tax credit**][**F91**[**F92, of an income-based jobseeker's allowance or of an income-related employment and support allowance**]]**.

(10) For the purposes of this Part a child shall be taken to be in need if—

(a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;

(b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or

(c) he is disabled,

and "family", in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

(11) For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—

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

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"health" means physical or mental health.

[F93(12) The Treasury may by regulations prescribe circumstances in which a person is to be treated for the purposes of this Part (or for such of those purposes as are prescribed) as in receipt of any element of child tax credit other than the family element or of working tax credit.**]**

Annotations:

Amendments (Textual)

F84 Words in s. 17(4) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 2**

F85 S. 17(4A) inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 53(1)**; S.I. 2005/394, **art. 2(1)(g)**; S.I. 2006/885, **art. 2(2)**

F86 Words in s. 17(5)(a) substituted (1.10.2001) by 2000 c. 35, **s. 7(2)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F87 Words in s. 17(6) inserted (7.11.2002) by 2002 c. 38, **ss. 116(1)**, 148(1) (with Sch. 4 paras. 6-8)

F88 Words in s. 17(9) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(a); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F89 Words in s. 17(9) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 108(a)**.

F90 Words in s. 17(9) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(b); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F91 Words in s. 17(9) added (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(2)**; S.I. 1996/2208, **art. 2**

F92 Words in s. 17(9) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(2)**; S.I. 2008/787, **art. 2(4)(f)**

F93 S. 17(12) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(3); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

Modifications etc. (not altering text)

C14 s. 17 excluded (6.12.1999) by S.I. 1999/3056, **reg. 12**

C15 S. 17 restricted (8.1.2003) by 2002 c. 41, s. 54, **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

Commencement Information

I17 S. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F94**17A Direct payments**

(1) The **[**F95**"**appropriate national authority**]** may by regulations make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person's consent, such payments to him as they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in that subsection.

(2) A person falls within this subsection if he is—

(a) a person with parental responsibility for a disabled child,

(b) a disabled person with parental responsibility for a child, or

(c) a disabled child aged 16 or 17,

and a local authority ("the responsible authority") have decided for the purposes of section 17 that the child's needs (or, if he is such a disabled child, his needs) call for

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the provision by them of a service in exercise of functions conferred on them under that section.

(3) Subsections (3) to (5) and (7) of section 57 of the 2001 Act shall apply, with any necessary modifications, in relation to regulations under this section as they apply in relation to regulations under that section.

(4) Regulations under this section shall provide that, where payments are made under the regulations to a person falling within subsection (5)—

(a) the payments shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act (as applied by subsection (3)); and

(b) subsection (4)(b) of that section shall not apply.

(5) A person falls within this subsection if he is—

(a) a person falling within subsection (2)(a) or (b) and the child in question is aged 16 or 17, or

(b) a person who is in receipt of income support [F96]... under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) , **[**[F97]of any element of child tax credit other than the family element, of working tax credit **][**[F98], of an income-based jobseeker's allowance or of an income-related employment and support allowance**]** .

(6) In this section—

"the 2001 Act" means the Health and Social Care Act 2001;

"disabled" in relation to an adult has the same meaning as that given by section 17(11) in relation to a child;

"prescribed" means specified in or determined in accordance with regulations under this section (and has the same meaning in the provisions of the 2001 Act mentioned in subsection (3) as they apply by virtue of that subsection).**]**

Annotations:

Amendments (Textual)

F94 S. 17A substituted (16.3.2003 for certain purposes and 8.4.2003 otherwise for E. and 1.11.2004 for W.) by 2001 c. 15, ss. 58, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/850, **art. 3(1)(b)(2)(a)**; S.I. 2004/1754, **art. 2(2)(b)**

F95 Words in s. 17A(1) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 3**

F96 Words in s. 17A(5)(b) repealed (6.4.2003) by 2002 c. 21, ss. 60, 61, Sch. 6; S.I. 2003/962, **art. 2(3)(e)** Sch. 1 (subject to savings and transitional provisions in arts. 3, 4)

F97 Words in s. 17A(5)(b) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 17; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F98 Words in s. 17A(5)(b) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(3)**; S.I. 2008/787, **art. 2(4)(f)**

[F99 17B Vouchers for persons with parental responsibility for disabled children.

(1) The Secretary of State may by regulations make provision for the issue by a local authority of vouchers to a person with parental responsibility for a disabled child.

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(2) "Voucher" means a document whereby, if the local authority agrees with the person with parental responsibility that it would help him care for the child if the person with parental responsibility had a break from caring, that person may secure the temporary provision of services for the child under section 17.

(3) The regulations may, in particular, provide—

(a) for the value of a voucher to be expressed in terms of money, or of the delivery of a service for a period of time, or both;

(b) for the person who supplies a service against a voucher, or for the arrangement under which it is supplied, to be approved by the local authority;

(c) for a maximum period during which a service (or a service of a prescribed description) can be provided against a voucher.**]**

Annotations:

Amendments (Textual)

F99 S. 17B inserted (30.4.2003 for E. and otherwise prosp.) by 2000 c. 16, ss. 7(1), 12(2); S.I. 2003/1183, **art. 2**

18 Day care for pre-school and other children.

(1) Every local authority shall provide such day care for children in need within their area who are—

(a) aged five or under; and

(b) not yet attending schools,

as is appropriate.

(2) A local authority **[**F100in Wales**]** may provide day care for children within their area who satisfy the conditions mentioned in subsection (1)(a) and (b) even though they are not in need.

(3) A local authority may provide facilities (including training, advice, guidance and counselling) for those—

(a) caring for children in day care; or

(b) who at any time accompany such children while they are in day care.

(4) In this section "day care" means any form of care or supervised activity provided for children during the day (whether or not it is provided on a regular basis).

(5) Every local authority shall provide for children in need within their area who are attending any school such care or supervised activities as is appropriate—

(a) outside school hours; or

(b) during school holidays.

(6) A local authority **[**F101in Wales**]** may provide such care or supervised activities for children within their area who are attending any school even though those children are not in need.

(7) In this section "supervised activity" means an activity supervised by a responsible person.

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Annotations:

Amendments (Textual)

F100 Words in s. 18(2) inserted (1.10.2007) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 4(a)**; S.I. 2007/2717, **art. 2(e)**

F101 Words in s. 18(6) inserted (1.10.2007) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 4(b)**; S.I. 2007/2717, **art. 2(e)**

Commencement Information

I18 S. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F102 19 Review of provision for day care, child minding etc.

[F103 (1) Every local authority in England and Wales shall review—

(a) the provision which they make under section 18;

(b) the extent to which the services of child minders are available within their area with respect to children under the age of eight; and

(c) the provision for day care within their area made for children under the age of eight by persons other, than the authority, required to register under [F104 Part XA].

(2) A review under subsection (1) shall be conducted—

(a) together with the appropriate local education authority; and

(b) at least once in every review period.]

(3) Every local authority in Scotland shall, at least once in every review period, review—

(a) the provision for day care within their area made for children under the age of eight by the local authority and by persons required to register under section 71(1)(b); and

(b) the extent to which the services of child minders are available within their area with respect to children under the age of eight.

(4) In conducting any such review, [F105 the two authorities or, in Scotland,] the authority shall have regard to the provision made with respect to children under the age of eight in relevant establishments within their area.

(5) In this section—

[F106 "relevant establishment" means—

(a) in relation to Scotland, any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (establishments exempt from the registration requirements which apply in relation to the provision of day care in Scotland); and

(b) in relation to England and Wales, any establishment which is mentioned in paragraphs 1 and 2 of Schedule 9A (establishments exempt from the registration requirements which apply in relation to the provision of day care in England and Wales);]

"review period" means the period of one year beginning with the commencement of this section and each subsequent period of three years beginning with an anniversary of that commencement.

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(6) Where a local authority have conducted a review under this section they shall publish the result of the review—

(a) as soon as is reasonably practicable;

(b) in such form as they consider appropriate; and

(c) together with any proposals they may have with respect to the matters reviewed.

(7) The authorities conducting any review under this section shall have regard to—

(a) any representations made to any one of them by any relevant **[**F107Health Authority, Special Health Authority**][**F108, Primary Care Trust**]**or health board; and

(b) any other representations which they consider to be relevant.

(8) In the application of this section to Scotland, "day care" has the same meaning as in section 79 and "health board" has the same meaning as in the M11National Health Service (Scotland) Act 1978.**]**

Annotations:

Amendments (Textual)

F102 S. 19 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

F103 S. 19(1)(2) repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, ss. 149, 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**

F104 Words in s. 19(1)(c) substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(a)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F105 In s. 19(4) words repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, s. 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**

F106 S. 19(5): definition of
"relevant establishment"
substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(b)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F107 Words in s. 19(7)(a) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(2)(with Sch. 2 para. 6)

F108 Words in s. 19(7)(a) inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(2)**

Commencement Information

I19 S. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M11 1978 c. 29.

Provision of accommodation for children

20 Provision of accommodation for children: general.

(1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—

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(a) there being no person who has parental responsibility for him;
(b) his being lost or having been abandoned; or
(c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

(2) Where a local authority provide accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within—
(a) three months of being notified in writing that the child is being provided with accommodation; or
(b) such other longer period as may be prescribed.

(3) Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.

(4) A local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare.

(5) A local authority may provide accommodation for any person who has reached the age of sixteen but is under twenty-one in any community home which takes children who have reached the age of sixteen if they consider that to do so would safeguard or promote his welfare.

(6) Before providing accommodation under this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—
(a) ascertain the child's wishes **[**F109and feelings**]** regarding the provision of accommodation; and
(b) give due consideration (having regard to his age and understanding) to such wishes **[**F109and feelings**]** of the child as they have been able to ascertain.

(7) A local authority may not provide accommodation under this section for any child if any person who—
(a) has parental responsibility for him; and
(b) is willing and able to—
(i) provide accommodation for him; or
(ii) arrange for accommodation to be provided for him,
objects.

(8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.

(9) Subsections (7) and (8) do not apply while any person—
(a) in whose favour a residence order is in force with respect to the child; F110...
[F111(aa) who is a special guardian of the child; or**]**
(b) who has care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children,
agrees to the child being looked after in accommodation provided by or on behalf of the local authority.

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(10) Where there is more than one such person as is mentioned in subsection (9), all of them must agree.

(11) Subsections (7) and (8) do not apply where a child who has reached the age of sixteen agrees to being provided with accommodation under this section.

Annotations:

Amendments (Textual)

F109 Words in s. 20(6)(a)(b) inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 53(2)**; S.I. 2005/394, **art. 2(1)(g)**; S.I. 2006/885, **art. 2(2)**

F110 Word in s. 20(9)(a) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 59, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

F111 S. 20(9)(aa) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 59 (with Sch. 4 paras. 6-8); S.I. 2003/2213, **art. 2(o)**

Modifications etc. (not altering text)

C16 S. 20(8) restricted (30.12.2005) by 2002 c. 38, ss. 30(6), 148 (subject to ss. 31-33) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(c)**

Commencement Information

I20 S. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

21 Provision of accommodation for children in police protection or detention or on remand, etc.

(1) Every local authority shall make provision for the reception and accommodation of children who are removed or kept away from home under Part V.

(2) Every local authority shall receive, and provide accommodation for, children—

(a) in police protection whom they are requested to receive under section 46(3)(f);

(b) whom they are requested to receive under section 38(6) of the [M12]Police and Criminal Evidence Act 1984;

(c) who are—

(i) on remand under **[**[F112F113]... section**]** 23(1) of the [M13]Children and Young Persons Act 1969; ...

[[F114](ia) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach etc. of referral orders and reparation orders);**]**

[[F115](ii) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 21 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach etc. of youth rehabilitation orders); or**]**

[[F116](iii) the subject of a youth rehabilitation order imposing a local authority residence requirement or a youth rehabilitation order with fostering,**]**

and with respect to whom they are the designated authority.

[[F117](2A) In subsection (2)(c)(iii), the following terms have the same meanings as in Part 1 of the Criminal Justice and Immigration Act 2008 (see section 7 of that Act)—

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"local authority residence requirement";
"youth rehabilitation order";
"youth rehabilitation order with fostering".**]**

(3) Where a child has been—

(a) removed under Part V; or

(b) detained under section 38 of the Police and Criminal Evidence Act 1984,

and he is not being provided with accommodation by a local authority or in a hospital vested in the Secretary of State **[**F118"**,** the Welsh Ministers**][**F119or a Primary Care Trust,**][**F120or otherwise made available pursuant to arrangements made by a **[**F121Health Authority**]][**F122Local Health Board**][** or a Primary Care Trust**]**, any reasonable expenses of accommodating him shall be recoverable from the local authority in whose area he is ordinarily resident.

Annotations:

Amendments (Textual)

F112 Words in s. 21(2)(c)(i) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 126(a)**

F113 Words in s. 21(2)(c)(i) and word at the end of sub-paragraph (i) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 34(2)(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)(u)(xi)**

F114 S. 21(2)(c)(ia) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 105** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)**

F115 S. 21(2)(c)(ii)(iii) substituted (30.11.2009) for s. 21(2)(c)(ii) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 34(2)(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)**

F116 S. 21(2)(c)(ii)(iii) substituted (30.11.2009) for s. 21(2)(c)(ii) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 34(2)(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)**

F117 S. 21(2A) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 34(3)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)**

F118 Words in s. 21(3) inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 5**

F119 Words in s. 21(3) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch.1 para. 24(3)(a)(b)**

F120 Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(1)**

F121 Words in s. 21(3) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(3) (with Sch. 2 para. 6)

F122 Words in s. 21(3) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2**, 3 {Sch. para. 20(2)(a)}

Commencement Information

I21 S. 21 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M12 1984 c. 60.

M13 1969 c. 54.

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Duties of local authorities in relation to children looked after by them

22 General duty of local authority in relation to children looked after by them.

(1) In this Act, any reference to a child who is looked after by a local authority is a reference to a child who is—

(a) in their care; or

(b) provided with accommodation by the authority in the exercise of any functions (in particular those under this Act) which **[**F123are social services functions within the meaning of**]** the M14Local Authority Social Services Act 1970 **[**F124, apart from functions under sections **[**F125**17]** 23B and 24B**]**.

(2) In subsection (1) "accommodation" means accommodation which is provided for a continuous period of more than 24 hours.

(3) It shall be the duty of a local authority looking after any child—

(a) to safeguard and promote his welfare; and

(b) to make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case.

[F126(3A) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child's educational achievement.**]**

(4) Before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

(a) the child;

(b) his parents;

(c) any person who is not a parent of his but who has parental responsibility for him; and

(d) any other person whose wishes and feelings the authority consider to be relevant,

regarding the matter to be decided.

(5) In making any such decision a local authority shall give due consideration—

(a) having regard to his age and understanding, to such wishes and feelings of the child as they have been able to ascertain;

(b) to such wishes and feelings of any person mentioned in subsection (4)(b) to (d) as they have been able to ascertain; and

(c) to the child's religious persuasion, racial origin and cultural and linguistic background.

(6) If it appears to a local authority that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise their powers with respect to a child whom they are looking after in a manner which may not be consistent with their duties under this section, they may do so.

(7) If the **[**F127appropriate national authority**]** considers it necessary, for the purpose of protecting members of the public from serious injury, to give directions to a local authority with respect to the exercise of their powers with respect to a child whom they are looking after, **[**F128the appropriate national authority**]** may give such directions to **[**F129the local authority**]** .

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(8) Where any such directions are given to an authority they shall comply with them even though doing so is inconsistent with their duties under this section.

Annotations:

Amendments (Textual)

F123 Words in s. 22(1)(b) substituted (26.10.2000 for E. and otherwise 28.7.2001) by 2000 c. 22, ss. 107, 108(4), **Sch. 5 para. 19**; S.I. 2000/2849, **art. 2(f)**

F124 Words in s. 22(1)(b) inserted (1.10.2001) by 2000 c. 35, **s. 2(2)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F125 Word in s. 22(1) inserted (7.11.2002) by 2002 c. 38, **ss. 116**, 148 (with Sch. 4 paras. 6-8)

F126 S. 22(3A) inserted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 52**; S.I. 2005/394, **art. 2(3)(b)**; S.I. 2006/885, **art. 2(2)**

F127 Words in s. 22(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 6(a)**

F128 Words in s. 22(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 6(b)**

F129 Words in s. 22(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 6(c)**

Modifications etc. (not altering text)

C17 S. 22 applied (1.10.1992) by Children and Young Persons Act 1969 (c. 54, SIF 20), **s. 23(13)(a)** (as substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 60(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

C18 S. 22(4)(b)-(d)(5)(b): power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, ss. 53(1)(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**

C19 S. 22(4)(b) excluded (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), **art. 45(2)(a)**
S. 22(4)(b) excluded (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **art. 46(2)(a)**

C20 S. 22(4)(c) modified (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), **art. 45(2)(b)**
S. 22(4)(c) applied (with modifications) (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **art. 46(2)(b)**

C21 S. 22(5)(b) modified (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), **art. 45(2)(c)**
S. 22(5)(b) applied (with modifications) (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **art. 46(2)(c)**

Commencement Information

I22 S. 22 wholly in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M14 1970 c. 42.

23 . . . . . .

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PROSPECTIVE

[F142 22A Provision of accommodation for children in care

When a child is in the care of a local authority, it is their duty to provide the child with accommodation.

Annotations:

Amendments (Textual)

F142 Ss. 22A-22F substituted (1.9.2009 for E. "in so far as it inserts" ss. 22C(11), 22F and otherwise prosp.) for s. 23 by Children and Young Persons Act 2008 (c. 23), **ss. 8(1)**, 44; S.I. 2009/2273, **art. 2(2)(a)**

PROSPECTIVE

22B Maintenance of looked after children

It is the duty of a local authority to maintain a child they are looking after in other respects apart from the provision of accommodation.

[F142 22C Ways in which looked after children are to be accommodated and maintained

(1) This section applies where a local authority are looking after a child ("C").

(2) The local authority must make arrangements for C to live with a person who falls within subsection (3) (but subject to subsection (4)).

(3) A person ("P") falls within this subsection if—

(a) P is a parent of C;

(b) P is not a parent of C but has parental responsibility for C; or

(c) in a case where C is in the care of the local authority and there was a residence order in force with respect to C immediately before the care order was made, P was a person in whose favour the residence order was made.

(4) Subsection (2) does not require the local authority to make arrangements of the kind mentioned in that subsection if doing so—

(a) would not be consistent with C's welfare; or

(b) would not be reasonably practicable.

(5) If the local authority are unable to make arrangements under subsection (2), they must place C in the placement which is, in their opinion, the most appropriate placement available.

(6) In subsection (5) "placement" means—

(a) placement with an individual who is a relative, friend or other person connected with C and who is also a local authority foster parent;

(b) placement with a local authority foster parent who does not fall within paragraph (a);

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(c) placement in a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000; or

(d) subject to section 22D, placement in accordance with other arrangements which comply with any regulations made for the purposes of this section.

(7) In determining the most appropriate placement for C, the local authority must, subject to the other provisions of this Part (in particular, to their duties under section 22)—

(a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection;

(b) comply, so far as is reasonably practicable in all the circumstances of C's case, with the requirements of subsection (8); and

(c) comply with subsection (9) unless that is not reasonably practicable.

(8) The local authority must ensure that the placement is such that—

(a) it allows C to live near C's home;

(b) it does not disrupt C's education or training;

(c) if C has a sibling for whom the local authority are also providing accommodation, it enables C and the sibling to live together;

(d) if C is disabled, the accommodation provided is suitable to C's particular needs.

(9) The placement must be such that C is provided with accommodation within the local authority's area.

(10) The local authority may determine—

(a) the terms of any arrangements they make under subsection (2) in relation to C (including terms as to payment); and

(b) the terms on which they place C with a local authority foster parent (including terms as to payment but subject to any order made under section 49 of the Children Act 2004).

(11) The appropriate national authority may make regulations for, and in connection with, the purposes of this section.

(12) In this Act "local authority foster parent" means a person who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2.

PROSPECTIVE

22D Review of child's case before making alternative arrangements for accommodation

(1) Where a local authority are providing accommodation for a child ("C") other than by arrangements under section 22C(6)(d), they must not make such arrangements for C unless they have decided to do so in consequence of a review of C's case carried out in accordance with regulations made under section 26.

(2) But subsection (1) does not prevent a local authority making arrangements for C under section 22C(6)(d) if they are satisfied that in order to safeguard C's welfare it is necessary—

(a) to make such arrangements; and

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(b) to do so as a matter of urgency.

PROSPECTIVE

22E Children's homes provided by appropriate national authority

Where a local authority place a child they are looking after in a children's home provided, equipped and maintained by an appropriate national authority under section 82(5), they must do so on such terms as that national authority may from time to time determine.**]**

22F Regulations as to children looked after by local authorities

Part 2 of Schedule 2 has effect for the purposes of making further provision as to children looked after by local authorities and in particular as to the regulations which may be made under section 22C(11).**]**

PROSPECTIVE

[F143 22G General duty of local authority to secure sufficient accommodation for looked after children

(1) It is the general duty of a local authority to take steps that secure, so far as reasonably practicable, the outcome in subsection (2).

(2) The outcome is that the local authority are able to provide the children mentioned in subsection (3) with accommodation that—

(a) is within the authority's area; and

(b) meets the needs of those children.

(3) The children referred to in subsection (2) are those—

(a) that the local authority are looking after,

(b) in respect of whom the authority are unable to make arrangements under section 22C(2), and

(c) whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the authority's area.

(4) In taking steps to secure the outcome in subsection (2), the local authority must have regard to the benefit of having—

(a) a number of accommodation providers in their area that is, in their opinion, sufficient to secure that outcome; and

(b) a range of accommodation in their area capable of meeting different needs that is, in their opinion, sufficient to secure that outcome.

(5) In this section "accommodation providers" means—

local authority foster parents; and

children's homes in respect of which a person is registered under Part 2 of the Care Standards Act 2000.**]**

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Annotations:

Amendments (Textual)

F143 S. 22G inserted (prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 9**, 44

[F144Visiting

Annotations:

Amendments (Textual)

F144 S. 23ZA and cross-heading inserted (1.9.2009 for E. for certain purposes and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 15**, 44; S.I. 2009/2273, **art. 2(2)(d)**

23ZA Duty of local authority to ensure visits to, and contact with, looked after children and others

(1) This section applies to—

(a) a child looked after by a local authority;

(b) a child who was looked after by a local authority but who has ceased to be looked after by them as a result of prescribed circumstances.

(2) It is the duty of the local authority—

(a) to ensure that a person to whom this section applies is visited by a representative of the authority ("a representative");

(b) to arrange for appropriate advice, support and assistance to be available to a person to whom this section applies who seeks it from them.

(3) The duties imposed by subsection (2)—

(a) are to be discharged in accordance with any regulations made for the purposes of this section by the appropriate national authority;

(b) are subject to any requirement imposed by or under an enactment applicable to the place in which the person to whom this section applies is accommodated.

(4) Regulations under this section for the purposes of subsection (3)(a) may make provision about—

(a) the frequency of visits;

(b) circumstances in which a person to whom this section applies must be visited by a representative; and

(c) the functions of a representative.

(5) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.

23ZB Independent visitors for children looked after by a local authority

(1) A local authority looking after a child must appoint an independent person to be the child's visitor if—

(a) the child falls within a description prescribed in regulations made by the appropriate national authority; or

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(b) in any other case, it appears to them that it would be in the child's interests to do so.

(2) A person appointed under this section must visit, befriend and advise the child.

(3) A person appointed under this section is entitled to recover from the appointing authority any reasonable expenses incurred by that person for the purposes of that person's functions under this section.

(4) A person's appointment as a visitor in pursuance of this section comes to an end if—

(a) the child ceases to be looked after by the local authority;

(b) the person resigns the appointment by giving notice in writing to the appointing authority; or

(c) the authority give him notice in writing that they have terminated it.

(5) The ending of such an appointment does not affect any duty under this section to make a further appointment.

(6) Where a local authority propose to appoint a visitor for a child under this section, the appointment shall not be made if—

(a) the child objects to it; and

(b) the authority are satisfied that the child has sufficient understanding to make an informed decision.

(7) Where a visitor has been appointed for a child under this section, the local authority shall terminate the appointment if—

(a) the child objects to its continuing; and

(b) the authority are satisfied that the child has sufficient understanding to make an informed decision.

(8) If the local authority give effect to a child's objection under subsection (6) or (7) and the objection is to having anyone as the child's visitor, the authority does not have to propose to appoint another person under subsection (1) until the objection is withdrawn.

(9) The appropriate national authority may make regulations as to the circumstances in which a person is to be regarded for the purposes of this section as independent of the appointing authority.**]]**

Annotations:

Amendments (Textual)

F145 S. 23ZB inserted (1.9.2009 for E. for certain purposes and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 16(1)**, 44; S.I. 2009/2273, **art. 2(2)(e)**

*Advice and assistance for certain children **[**F146 and young persons**]***

Annotations:

Amendments (Textual)

F146 Words in heading before s. 24 inserted (1.10.2001) by 2000 c. 35, **ss. 2(3)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

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[F147 23A The responsible authority and relevant children.

(1) The responsible local authority shall have the functions set out in section 23B in respect of a relevant child.

(2) In subsection (1) "relevant child" means (subject to subsection (3)) a child who—

(a) is not being looked after by any local authority;

(b) was, before last ceasing to be looked after, an eligible child for the purposes of paragraph 19B of Schedule 2; and

(c) is aged sixteen or seventeen.

(3) The **[**F148 appropriate national authority**]** may prescribe—

(a) additional categories of relevant children; and

(b) categories of children who are not to be relevant children despite falling within subsection (2).

(4) In subsection (1) the "responsible local authority" is the one which last looked after the child.

(5) If under subsection (3)(a) the **[**F149 appropriate national authority**]** prescribes a category of relevant children which includes children who do not fall within subsection (2)(b) (for example, because they were being looked after by a local authority in Scotland), **[**F150 the appropriate national authority**]** may in the regulations also provide for which local authority is to be the responsible local authority for those children.**]**

Annotations:

Amendments (Textual)

F147 Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, **s. 2(4)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F148 Words in s. 23A(3) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 8(2)**

F149 Words in s. 23A(5) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 8(3)(a)**

F150 Words in s. 23A(5) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 8(3)(b)**

Modifications etc. (not altering text)

C23 S. 23A(2) modified (W.) (1.10.2001) by S.I. 2001/2189, **reg. 4(4)(5)** (as amended (1.8.2002) by S.I. 2002/1855, **reg. 2(b)(i)**)

[F151 23B Additional functions of the responsible authority in respect of relevant children.

(1) It is the duty of each local authority to take reasonable steps to keep in touch with a relevant child for whom they are the responsible authority, whether he is within their area or not.

(2) It is the duty of each local authority to appoint a personal adviser for each relevant child (if they have not already done so under paragraph 19C of Schedule 2).

(3) It is the duty of each local authority, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of paragraph 19B of Schedule 2 —

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(a) to carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Part; and

(b) to prepare a pathway plan for him.

(4) The local authority may carry out such an assessment at the same time as any assessment of his needs is made under any enactment referred to in sub-paragraphs (a) to (c) of paragraph 3 of Schedule 2, or under any other enactment.

(5) The **[**F152"appropriate national authority**]** may by regulations make provision as to assessments for the purposes of subsection (3).

(6) The regulations may in particular make provision about—

(a) who is to be consulted in relation to an assessment;

(b) the way in which an assessment is to be carried out, by whom and when;

(c) the recording of the results of an assessment;

(d) the considerations to which the local authority are to have regard in carrying out an assessment.

(7) **[**F153"The local authority**]** shall keep the pathway plan under regular review.

(8) The responsible local authority shall safeguard and promote the child's welfare and, unless they are satisfied that his welfare does not require it, support him by—

(a) maintaining him;

(b) providing him with or maintaining him in suitable accommodation; and

(c) providing support of such other descriptions as may be prescribed.

(9) Support under subsection (8) may be in cash.

(10) The **[**F154"appropriate national authority**]** may by regulations make provision about the meaning of "suitable accommodation" and in particular about the suitability of landlords or other providers of accommodation.

(11) If the local authority have lost touch with a relevant child, despite taking reasonable steps to keep in touch, they must without delay—

(a) consider how to re-establish contact; and

(b) take reasonable steps to do so,

and while the child is still a relevant child must continue to take such steps until they succeed.

(12) Subsections (7) to (9) of section 17 apply in relation to support given under this section as they apply in relation to assistance given under that section.

(13) Subsections (4) and (5) of section 22 apply in relation to any decision by a local authority for the purposes of this section as they apply in relation to the decisions referred to in that section.**]**

Annotations:

Amendments (Textual)

F151 Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, **s. 2(4)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F152 Words in s. 23B(5) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 9(2)**

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F153 Words in s. 23B(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 9(3)**

F154 Words in s. 23B(10) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 9(4)**

[F155 23C Continuing functions in respect of former relevant children.

(1) Each local authority shall have the duties provided for in this section towards—

(a) a person who has been a relevant child for the purposes of section 23A (and would be one if he were under eighteen), and in relation to whom they were the last responsible authority; and

(b) a person who was being looked after by them when he attained the age of eighteen, and immediately before ceasing to be looked after was an eligible child,

and in this section such a person is referred to as a "former relevant child".

(2) It is the duty of the local authority to take reasonable steps—

(a) to keep in touch with a former relevant child whether he is within their area or not; and

(b) if they lose touch with him, to re-establish contact.

(3) It is the duty of the local authority—

(a) to continue the appointment of a personal adviser for a former relevant child; and

(b) to continue to keep his pathway plan under regular review.

(4) It is the duty of the local authority to give a former relevant child—

(a) assistance of the kind referred to in section 24B(1), to the extent that his welfare requires it;

(b) assistance of the kind referred to in section 24B(2), to the extent that his welfare and his educational or training needs require it;

(c) other assistance, to the extent that his welfare requires it.

(5) The assistance given under subsection (4)(c) may be in kind or, in exceptional circumstances, in cash.

[F156 (5A) It is the duty of the local authority to pay the relevant amount to a former relevant child who pursues higher education in accordance with a pathway plan prepared for that person.

(5B) The appropriate national authority may by regulations—

(a) prescribe the relevant amount for the purposes of subsection (5A);

(b) prescribe the meaning of "higher education" for those purposes;

(c) make provision as to the payment of the relevant amount;

(d) make provision as to the circumstances in which the relevant amount (or any part of it) may be recovered by the local authority from a former relevant child to whom a payment has been made.

(5C) The duty set out in subsection (5A) is without prejudice to that set out in subsection (4)(b).]

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(6) Subject to subsection (7), the duties set out in subsections (2), (3) and (4) subsist until the former relevant child reaches the age of twenty-one.

(7) If the former relevant child's pathway plan sets out a programme of education or training which extends beyond his twenty-first birthday—

(a) the duty set out in subsection (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and

(b) the duties set out in subsections (2) and (3) continue to subsist concurrently with that duty.

(8) For the purposes of subsection (7)(a) there shall be disregarded any interruption in a former relevant child's pursuance of a programme of education or training if the local authority are satisfied that he will resume it as soon as is reasonably practicable.

(9) Section 24B(5) applies in relation to a person being given assistance under subsection (4)(b) **[**[F157]or who is in receipt of a payment under subsection (5A)**]** as it applies in relation to a person to whom section 24B(3) applies.

(10) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section as they apply in relation to assistance given under that section.**]**

Annotations:

Amendments (Textual)

F155 Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, **s. 2(4)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F156 S. 23C(5A)-(5C) inserted (12.2.2009 for certain purposes for E. and otherwise 22.8.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 21(2)**, 44; S.I. 2009/268, **art. 3(1)(d)**; S.I. 2009/2273, **art. 2(1)**

F157 Words in s. 23C(9) inserted (22.8.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 21(3)**, 44; S.I. 2009/2273, **art. 2(1)**

Modifications etc. (not altering text)

C24 S. 23C restricted (8.1.2003) by 2002 c. 41, s. 54, **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

PROSPECTIVE

[[F158]**23CA Further assistance to pursue education or training**

(1) This section applies to a person if—

(a) he is under the age of twenty-five or of such lesser age as may be prescribed by the appropriate national authority;

(b) he is a former relevant child (within the meaning of section 23C) towards whom the duties imposed by subsections (2), (3) and (4) of that section no longer subsist; and

(c) he has informed the responsible local authority that he is pursuing, or wishes to pursue, a programme of education or training.

(2) It is the duty of the responsible local authority to appoint a personal adviser for a person to whom this section applies.

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(3) It is the duty of the responsible local authority—

(a) to carry out an assessment of the needs of a person to whom this section applies with a view to determining what assistance (if any) it would be appropriate for them to provide to him under this section; and

(b) to prepare a pathway plan for him.

(4) It is the duty of the responsible local authority to give assistance of a kind referred to subsection (5) to a person to whom this section applies to the extent that his educational or training needs require it.

(5) The kinds of assistance are—

(a) contributing to expenses incurred by him in living near the place where he is, or will be, receiving education or training; or

(b) making a grant to enable him to meet expenses connected with his education and training.

(6) If a person to whom this section applies pursues a programme of education or training in accordance with the pathway plan prepared for him, the duties of the local authority under this section (and under any provision applicable to the pathway plan prepared under this section for that person) subsist for as long as he continues to pursue that programme.

(7) For the purposes of subsection (6), the local authority may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that he will resume it as soon as is reasonably practicable.

(8) Subsections (7) to (9) of section 17 apply to assistance given to a person under this section as they apply to assistance given to or in respect of a child under that section, but with the omission in subsection (8) of the words "and of each of his parents".

(9) Subsection (5) of section 24B applies to a person to whom this section applies as it applies to a person to whom subsection (3) of that section applies.

(10) Nothing in this section affects the duty imposed by subsection (5A) of section 23C to the extent that it subsists in relation to a person to whom this section applies; but the duty to make a payment under that subsection may be taken into account in the assessment of the person's needs under subsection (3)(a).

(11) In this section "the responsible local authority" means, in relation to a person to whom this section applies, the local authority which had the duties provided for in section 23C towards him.**]**

Annotations:

Amendments (Textual)

F158 S. 23CA inserted (prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 22(2)**, 44

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[F159 Personal advisers and pathway plans]

Annotations:

Amendments (Textual)

F159 Ss. 23D, 23E and cross-heading inserted (1.10.2001) by 2000 c. 35, **s. 3**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

[F160 23D Personal advisers.

(1) The [F161 appropriate national authority] may by regulations require local authorities to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of sixteen but not the age of [F162 twenty-five] who are not—

(a) children who are relevant children for the purposes of section 23A;

(b) the young persons referred to in section 23C; or

(c) the children referred to in paragraph 19C of Schedule 2.[F163; or

(“) persons to whom section 23CA applies.]

(2) Personal advisers appointed under or by virtue of this Part shall (in addition to any other functions) have such functions as the [F164 appropriate national authority] prescribes.]

Annotations:

Amendments (Textual)

F160 Ss. 23D, 23E and cross-heading inserted (1.10.2001) by 2000 c. 35, **s. 3**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F161 Words in s. 23D(1) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 10**

F162 Word in s. 23D(1) substituted (1.1.2010 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 23(1)(a)**, 44; S.I. 2009/3354, **art. 3(1)**

F163 S. 23D(1)(d) and word inserted (1.1.2010 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 23(1)(b)**, 44; S.I. 2009/3354, **art. 3(1)**

F164 Words in s. 23D(2) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 10**

[F165 23E Pathway plans.

(1) In this Part, a reference to a “pathway plan” is to a plan setting out—

(a) in the case of a plan prepared under paragraph 19B of Schedule 2—

(i) the advice, assistance and support which the local authority intend to provide a child under this Part, both while they are looking after him and later; and

(ii) when they might cease to look after him; and

(b) in the case of a plan prepared under section 23B , the advice, assistance and support which the local authority intend to provide under this Part,

and dealing with such other matters (if any) as may be prescribed.

[F166 (1A) A local authority may carry out an assessment under section 23B(3) or 23CA(3) of a person's needs at the same time as any assessment of his needs is made under—

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(a) the Chronically Sick and Disabled Persons Act 1970;
(b) Part 4 of the Education Act 1996 (in the case of an assessment under section 23B(3));
(c) the Disabled Persons (Services, Consultation and Representation) Act 1986; or
(d) any other enactment.

(1B) The appropriate national authority may by regulations make provision as to assessments for the purposes of section 23B(3) or 23CA.

(1C) Regulations under subsection (1B) may in particular make provision about—
(a) who is to be consulted in relation to an assessment;
(b) the way in which an assessment is to be carried out, by whom and when;
(c) the recording of the results of an assessment;
(d) the considerations to which a local authority are to have regard in carrying out an assessment.

(1D) A local authority shall keep each pathway plan prepared by them under section 23B or 23CA under review.**]**

(2) The **[**F167appropriate national authority**]** may by regulations make provision about pathway plans and their review.**]**

Annotations:

Amendments (Textual)

F165 Ss. 23D, 23E and cross-heading inserted (1.10.2001) by 2000 c. 35, **s. 3**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F166 S. 23E(1A)-(1D) inserted (1.9.2009 for E. for certain purposes and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 22(5)**, 44; S.I. 2009/2273, **art. 2(2)(g)**

F167 Words in s. 23E(2) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 11**

[F168**24 Persons qualifying for advice and assistance.**

[F169**(1) In this Part "a person qualifying for advice and assistance" means a person to whom subsection (1A) or (1B) applies.

(1A) This subsection applies to a person—
(a) who has reached the age of sixteen but not the age of twenty-one;
(b) with respect to whom a special guardianship order is in force (or, if he has reached the age of eighteen, was in force when he reached that age); and
(c) who was, immediately before the making of that order, looked after by a local authority.

(1B) This subsection applies to a person to whom subsection (1A) does not apply, and who —
(a) is under twenty-one; and
(b) at any time after reaching the age of sixteen but while still a child was, but is no longer, looked after, accommodated or fostered.**]**

(2) In **[**F170subsection (1B)(b)**]**, "looked after, accommodated or fostered" means—

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(a) looked after by a local authority;
(b) accommodated by or on behalf of a voluntary organisation;
(c) accommodated in a private children's home;
(d) accommodated for a consecutive period of at least three months—
(i) by any **[**F171Local Health Board**]** , Special Health Authority, Primary Care Trust or local education authority, or
(ii) in any care home or independent hospital or in any accommodation provided by a National Health Service trust **[**F172or an NHS foundation trust**]** ; or
(e) privately fostered.

(3) Subsection (2)(d) applies even if the period of three months mentioned there began before the child reached the age of sixteen.

(4) In the case of a person qualifying for advice and assistance by virtue of subsection (2)(a), it is the duty of the local authority which last looked after him to take such steps as they think appropriate to contact him at such times as they think appropriate with a view to discharging their functions under sections 24A and 24B.

(5) In each of sections 24A and 24B, the local authority under the duty or having the power mentioned there ("the relevant authority") is—
[F173(za) in the case of a person to whom subsection (1A) applies, a local authority determined in accordance with regulations made by the **[**F174appropriate national authority**]** ;**]]**
(a) in the case of a person qualifying for advice and assistance by virtue of subsection (2)(a), the local authority which last looked after him; or
(b) in the case of any other person qualifying for advice and assistance, the local authority within whose area the person is (if he has asked for help of a kind which can be given under section 24A or 24B).

Annotations:

Amendments (Textual)

F168 Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, **s. 4(1)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F169 S. 24(1)-(1B) substituted (30.12.2005) for s. 24(1) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 60(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F170 Words in s. 24(2) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 60(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F171 Words in s. 24(2)(d)(i) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(2)(b)**

F172 Words in s. 24(2)(d)(ii) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 76**; S.I. 2004/759, **art. 2**

F173 S. 24(5)(za) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 60(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F174 Words in s. 24(5)(za) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 12**

Modifications etc. (not altering text)

C25 S. 24(2)(c)(d)(ii) amended (*temp.* from 1.10.2001) by 2000 c. 35, **s. 4(2)(a)(b)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

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[F175 24A Advice and assistance.

(1) The relevant authority shall consider whether the conditions in subsection (2) are satisfied in relation to a person qualifying for advice and assistance.

(2) The conditions are that—

(a) he needs help of a kind which they can give under this section or section 24B; and

(b) in the case of a person **[**F176to whom section 24(1A) applies, or to whom section 24(1B) applies and **]** who was not being looked after by any local authority, they are satisfied that the person by whom he was being looked after does not have the necessary facilities for advising or befriending him.

(3) If the conditions are satisfied—

(a) they shall advise and befriend him if **[**F177he is a person to whom section 24(1A) applies, or he is a person to whom section 24(1B) applies and**]** he was being looked after by a local authority or was accommodated by or on behalf of a voluntary organisation; and

(b) in any other case they may do so.

(4) Where as a result of this section a local authority are under a duty, or are empowered, to advise and befriend a person, they may also give him assistance.

(5) The assistance may be in kind **[**F178and, in exceptional circumstances, assistance may be given—

(a) by providing accommodation, if in the circumstances assistance may not be given in respect of the accommodation under section 24B, or

(b) in cash**]**.

(6) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section or section 24B as they apply in relation to assistance given under that section.**]**

Annotations:

Amendments (Textual)

F175 Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, **s. 4(1)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F176 Words in s. 24A(2)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 61(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F177 Words in s. 24A(3)(a) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 61(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F178 Words in s. 24A(5) substituted (7.11.2002) by 2002 c. 38, **ss. 116(3)**, 148 (with Sch. 4 paras. 6-8)

Modifications etc. (not altering text)

C26 S. 24A restricted (8.1.2002) by 2002 c. 41, s. 54, **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

[F179 24B Employment, education and training.

(1) The relevant local authority may give assistance to any person who qualifies for advice and assistance by virtue of **[**F180section 24(1A) or**]** section 24(2)(a) by contributing to expenses incurred by him in living near the place where he is, or will be, employed or seeking employment.

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(2) The relevant local authority may give assistance to a person to whom subsection (3) applies by—

(a) contributing to expenses incurred by the person in question in living near the place where he is, or will be, receiving education or training; or

(b) making a grant to enable him to meet expenses connected with his education or training.

(3) This subsection applies to any person who—

(a) is under twenty-four; and

(b) qualifies for advice and assistance by virtue of **[**F180section 24(1A) or**]** section 24(2)(a), or would have done so if he were under twenty-one.

(4) Where a local authority are assisting a person under subsection (2) they may disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.

(5) Where the local authority are satisfied that a person to whom subsection (3) applies who is in full-time further or higher education needs accommodation during a vacation because his term-time accommodation is not available to him then, they shall give him assistance by—

(a) providing him with suitable accommodation during the vacation; or

(b) paying him enough to enable him to secure such accommodation himself.

(6) The **[**F181"appropriate national authority**]** may prescribe the meaning of "full-time", "further education", "higher education" and "vacation" for the purposes of subsection (5).**]**

Annotations:

Amendments (Textual)

F179 Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, **s. 4(1)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F180 Words in s. 24B(1)(3)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 62 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F181 Words in s. 24B(6) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 13**

Modifications etc. (not altering text)

C27 S. 24B restricted (8.1.2003) by 2002 c. 41, s. 54, **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

[F182**24C Information.**

(1) Where it appears to a local authority that a person—

(a) with whom they are under a duty to keep in touch under section 23B, 23C or 24; or

(b) whom they have been advising and befriending under section 24A; or

(c) to whom they have been giving assistance under section 24B,

proposes to live, or is living, in the area of another local authority, they must inform that other authority.

(2) Where a child who is accommodated—

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(a) by a voluntary organisation or in a private children's home;

(b) by any **[**F183Local Health Board**]** , Special Health Authority, Primary Care Trust or local education authority; or

(c) in any care home or independent hospital or any accommodation provided by a National Health Service trust **[**F184or an NHS foundation trust**]** ,

ceases to be so accommodated, after reaching the age of sixteen, the organisation, authority or (as the case may be) person carrying on the home shall inform the local authority within whose area the child proposes to live.

(3) Subsection (2) only applies, by virtue of paragraph (b) or (c), if the accommodation has been provided for a consecutive period of at least three months.**]**

Annotations:

Amendments (Textual)

F182 Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, **s. 4(1)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F183 Words in s. 24C(2)(b) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(2)(c)**

F184 Words in s. 24C(2)(c) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 77**; S.I. 2004/759, **art. 2**

Modifications etc. (not altering text)

C28 S. 24C(2)(a)(c) amended (*temp.* from 1.10.2001) by 2000 c. 35, **s. 4(2)(a)(b)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

[F185**24D Representations: sections 23A to 24B.**

(1) Every local authority shall establish a procedure for considering representations (including complaints) made to them by—

(a) a relevant child for the purposes of section 23A or a young person falling within section 23C;

(b) a person qualifying for advice and assistance; or

(c) a person falling within section 24B(2),

about the discharge of their functions under this Part in relation to him.

[F186(1A) Regulations may be made by the **[**F187appropriate national authority**]** imposing time limits on the making of representations under subsection (1).**]**

(2) In considering representations under subsection (1), a local authority shall comply with regulations (if any) made by the **[**F188appropriate national authority**]** for the purposes of this subsection.**]**

Annotations:

Amendments (Textual)

F185 S. 24D inserted (1.10.2001) by 2000 c. 35, **s. 5**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F186 S. 24D(1A) inserted (7.12.2004) by 2002 c. 38, ss. 117(1), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(m)(xi)**

F187 Words in s. 24D(1A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 14**

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F188 Words in s. 24D(2) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 14**

Secure accommodation

25 Use of accomodation for restricting liberty.

(1) Subject to the following provisions of this section, a child who is being looked after by a local authority may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty ("secure accommodation") unless it appears—

(a) that—

(i) he has a history of absconding and is likely to abscond from any other description of accommodation; and

(ii) if he absconds, he is likely to suffer significant harm; or

(b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

(2) The **[**F189appropriate national authority**]** may by regulations—

(a) specify a maximum period—

(i) beyond which a child may not be kept in secure accommodation without the authority of the court; and

(ii) for which the court may authorise a child to be kept in secure accommodation;

(b) empower the court from time to time to authorise a child to be kept in secure accommodation for such further period as the regulations may specify; and

(c) provide that applications to the court under this section shall be ade only by local authorities.

(3) It shall be the duty of a court hearing an application under this section to determine whether any relevant criteria for keeping a child in secure accommodation are satisfied in his case.

(4) If a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which he may be so kept.

(5) On any adjournment of the hearing of an application under this section, a court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.

(6) No court shall exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless, having been informed of his right to apply for **[**F190representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service**]** and having had the opportunity to do so, he refused or failed to apply.

(7) The **[**F189appropriate national authority**]** may by regulations provide that—

(a) this section shall or shall not apply to any description of children specified in the regulations;

(b) this section shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified;

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(c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation.

(8) The giving of an authorisation under this section shall not prejudice any power of any court in England and Wales or Scotland to give directions relating to the child to whom the authorisation relates.

(9) This section is subject to section 20(8).

Annotations:

Extent Information

E2 S. 25 extends to England and Wales with the exception of s. 25(8) which extends to Great Britain. See s. 108(11)(12).

Amendments (Textual)

F189 Words in s. 25(2)(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 15**

F190 Words in s. 25(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 45** (with 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(ii)** (subject to arts. 3, 4 and with art. 5)

Modifications etc. (not altering text)

C29 S. 25 excluded (14.10.1991) by S.I. 1991/1505, **reg. 5(1)**.
S. 25 excluded (14.10.1991) by S.I. 1991/1505, **reg. 5(2)**.
S. 25 modified (14.10.1991) by S.I. 1991/1505, **reg. 6(1)**.
S. 25 modified (14.10.1991) by S.I. 1991/1505, **reg. 7(1)**.

Commencement Information

I24 S. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

26 [X1] Review of cases and inquiries into representations.

(1) The **[**[F191]"appropriate national authority**]** may make regulations requiring the case of each child who is being looked after by a local authority to be reviewed in accordance with the provisions of the regulations.

(2) The regulations may, in particular, make provision—

(a) as to the manner in which each case is to be reviewed;

(b) as to the considerations to which the local authority are to have regard in reviewing each case;

(c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;

(d) requiring the authority, before conducting any review, to seek the views of—

(i) the child;

(ii) his parents;

(iii) any person who is not a parent of his but who has parental responsibility for him; and

(iv) any other person whose views the authority consider to be relevant,

including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;

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(e) requiring the authority[F192]..., in the case of a child who is in their care

[[F193](i) to keep the section 31A plan for the child under review and, if they are of the opinion that some change is required, to revise the plan, or make a new plan, accordingly,

(ii) to consider**]**, whether an application should be made to discharge the care order;

(f) requiring the authority[F194]..., in the case of a child in accommodation provided by the authority

[[F195](i) if there is no plan for the future care of the child, to prepare one,

(ii) if there is such a plan for the child, to keep it under review and, if they are of the opinion that some change is required, to revise the plan or make a new plan, accordingly,

(iii) to consider**]**, whether the accommodation accords with the requirements of this Part;

(g) requiring the authority to inform the child, so far as is reasonably practicable, of any steps he may take under this Act;

(h) requiring the authority to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which they propose to make in the course, or as a result, of the review;

(i) requiring the authority to notify details of the result of the review and of any decision taken by them in consequence of the review to—

(i) the child;

(ii) his parents;

(iii) any person who is not a parent of his but who has parental responsibility for him; and

(iv) any other person whom they consider ought to be notified;

(j) requiring the authority to monitor the arrangements which they have made with a view to ensuring that they comply with the regulations.

[[F196](k) for the authority to appoint a person in respect of each case to carry out in the prescribed manner the functions mentioned in subsection (2A) and any prescribed function**]**

[[F197](2A) The functions referred to in subsection (2)(k) are—

(a) participating in the review of the case in question,

(b) monitoring the performance of the authority's functions in respect of the review,

(c) referring the case to an officer of the Children and Family Court Advisory and Support Service **[**[F198]or a Welsh family proceedings officer**]** , if the person appointed under subsection (2)(k) considers it appropriate to do so.

(2B) A person appointed under subsection (2)(k) must be a person of a prescribed description.

(2C) In relation to children whose cases are referred to officers under subsection (2A)(c), the Lord Chancellor may by regulations—

(a) extend any functions of the officers in respect of family proceedings (within the meaning of section 12 of the Criminal Justice and Court Services Act 2000) to other proceedings,

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(b) require any functions of the officers to be performed in the manner prescribed by the regulations.**]**

[F199(2D) The power to make regulations in subsection (2C) is exercisable in relation to functions of Welsh family proceedings officers only with the consent of the **[**F200Welsh Ministers**]** .**]**

(3) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by—

(a) any child who is being looked after by them or who is not being looked after by them but is in need;

(b) a parent of his;

(c) any person who is not a parent of his but who has parental responsibility for him;

(d) any local authority foster parent;

(e) such other person as the authority consider has a sufficient interest in the child's welfare to warrant his representations being considered by them,

about the discharge by the authority of any of their **[**F201qualifying functions **]**in relation to the child.

[F202(3A) The following are qualifying functions for the purposes of subsection (3)—

(a) functions under this Part,

(b) such functions under Part 4 or 5 as are specified by the **[**F203"appropriate national authority**]** in regulations.

(3B) The duty under subsection (3) extends to representations (including complaints) made to the authority by—

(a) any person mentioned in section 3(1) of the Adoption and Children Act 2002 (persons for whose needs provision is made by the Adoption Service) and any other person to whom arrangements for the provision of adoption support services (within the meaning of that Act) extend,

(b) such other person as the authority consider has sufficient interest in a child who is or may be adopted to warrant his representations being considered by them,

about the discharge by the authority of such functions under the Adoption and Children Act 2002 as are specified by the **[**F204"appropriate national authority**]** in regulations.**]**

[F205(3C) The duty under subsection (3) extends to any representations (including complaints) which are made to the authority by—

(a) a child with respect to whom a special guardianship order is in force,

(b) a special guardian or a parent of such a child,

(c) any other person the authority consider has a sufficient interest in the welfare of such a child to warrant his representations being considered by them, or

(d) any person who has applied for an assessment under section 14F(3) or (4),

about the discharge by the authority of such functions under section 14F as may be specified by the **[**F206"appropriate national authority**]** in regulations.**]**

(4) The procedure shall ensure that at least one person who is not a member or officer of the authority takes part in—

(a) the consideration; and

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(b) any discussions which are held by the authority about the action (if any) to be taken in relation to the child in the light of the consideration

[F207but this subsection is subject to subsection (5A).**]**

[F208(4A) Regulations may be made by the **[**F209"appropriate national authority**]** imposing time limits on the making of representations under this section.**]**

(5) In carrying out any consideration of representations under this section a local authority shall comply with any regulations made by the **[**F210"appropriate national authority**]** for the purpose of regulating the procedure to be followed.

[F211(5A) Regulations under subsection (5) may provide that subsection (4) does not apply in relation to any consideration or discussion which takes place as part of a procedure for which provision is made by the regulations for the purpose of resolving informally the matters raised in the representations.**]**

(6) The **[**F212"appropriate national authority**]** may make regulations requiring local authorities to monitor the arrangements that they have made with a view to ensuring that they comply with any regulations made for the purposes of subsection (5).

(7) Where any representation has been considered under the procedure established by a local authority under this section, the authority shall—

(a) have due regard to the findings of those considering the representation; and

(b) take such steps as are reasonably practicable to notify (in writing)—

(i) the person making the representation;

(ii) the child (if the authority consider that he has sufficient understanding); and

(iii) such other persons (if any) as appear to the authority to be likely to be affected,

of the authority's decision in the matter and their reasons for taking that decision and of any action which they have taken, or propose to take.

(8) Every local authority shall give such publicity to their procedure for considering representations under this section as they consider appropriate.

Annotations:

Editorial Information

X1 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F191 Words in s. 26(1) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(2)**

F192 Words in s. 26(2)(e) omitted (21.5.2004) and repealed (30.12.2005) by virtue of 2002 c. 38, ss. 118(1)(a), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**; S.I. 2005/2897, **art. 2(b)**

F193 Words in s. 26(2)(e) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**

F194 Words in s. 26(2)(f) omitted (21.5.2004) and repealed (30.12.2005) by virtue of 2002 c. 38, ss. 118(1)(a), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**; S.I. 2005/2897, **art. 2(b)**

F195 Words in s. 26(2)(f) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**

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F196 S. 26(2)(k) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(c), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**

F197 S. 26(2A)(2B)(2C) inserted (21.5.2004) by 2002 c. 38, ss. 118(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**

F198 Words in s. 26(2A)(c) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 8(2)**; S.I. 2005/700, **art. 2(2)**

F199 S. 26(2D) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 8(3)**; S.I. 2005/700, **art. 2(2)**

F200 Words in s. 26(2D) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(3)**

F201 Words in s. 26(3) substituted (30.12.2005) by 2002 c. 38, ss. 117(5), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F202 S.26(3A)(3B) inserted (7.12.2004 for specified purposes) by 2002 c. 38, ss. 117(4), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(m)(xi)**

F203 Words in s. 26(3A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

F204 Words in s. 26(3B) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

F205 S. 26(3C) inserted (17.1.2005 for E. and 30.12.2005 for W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 117(1)**; S.I. 2005/38, **art. 2(a)**; S.I. 2005/2925, art. 8; S.I. 2005/3285, **art. 2(1)**

F206 Words in s. 26(3C) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

F207 Words in s. 26(4) inserted (30.12.2005) by 2002 c. 38, ss. 117(5), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F208 S. 26(4A) inserted (7.12.2004) by 2002 c. 38, ss. 117(6), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(m)(xi)**

F209 Words in s. 26(4A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

F210 Words in s. 26(5) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

F211 S. 26(5A) inserted (30.12.2005) by 2002 c. 38, ss. 117(7), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F212 Words in s. 26(6) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

Commencement Information

I25 S. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F213 26ZA X2 Representations: further consideration

F214 . . . . . .]

Annotations:

Editorial Information

X2 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

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Amendments (Textual)

F213 S. 26ZA inserted (20.11.2003 for certain purposes and otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 116(1)**, 199

F214 S. 26ZA repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, Sch. 14 para. 10, **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5(gg)(ii)**

[F215X3 26ZB Representations: further consideration (Wales)

(1) The [F216 Welsh Ministers] may by regulations make provision for the further consideration of representations which have been considered by a local authority in Wales under section 24D or section 26.

(2) The regulations may in particular make provision—

(a) for the further consideration of a representation by an independent panel established under the regulations;

(b) about the procedure to be followed on the further consideration of a representation;

(c) for the making of recommendations about the action to be taken as the result of a representation;

(d) about the making of reports about a representation;

(e) about the action to be taken by the local authority concerned as a result of the further consideration of a representation;

(f) for a representation to be referred back to the local authority concerned for reconsideration by the authority.

(3) The regulations may require—

(a) the making of a payment, in relation to the further consideration of a representation under this section, by any local authority in respect of whose functions the representation is made;

(b) any such payment to be—

(i) made to such person or body as may be specified in the regulations;

(ii) of such amount as may be specified in, or calculated or determined under, the regulations; and

(c) for an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.

(4) The regulations may also—

(a) provide for different parts or aspects of a representation to be treated differently;

(b) require the production of information or documents in order to enable a representation to be properly considered;

(c) authorise the disclosure of information or documents relevant to a representation to a person or body who is further considering a representation under the regulations;

and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.]

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Annotations:

Editorial Information

X3 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F215 S. 26ZB inserted (1.4.2006) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 116(2)**; S.I. 2005/3285, **art. 2(2)(b)**

F216 Words in s. 26ZB(1) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 17**

[F217X4 26A Advocacy services

(1) Every local authority shall make arrangements for the provision of assistance to—

(a) persons who make or intend to make representations under section 24D; and

(b) children who make or intend to make representations under section 26.

(2) The assistance provided under the arrangements shall include assistance by way of representation.

[F218(2A) The duty under subsection (1) includes a duty to make arrangements for the provision of assistance where representations under section 24D or 26 are further considered under section F219... 26ZB.]

(3) The arrangements—

(a) shall secure that a person may not provide assistance if he is a person who is prevented from doing so by regulations made by the [F220appropriate national authority]; and

(b) shall comply with any other provision made by the regulations in relation to the arrangements.

(4) The [F221appropriate national authority] may make regulations requiring local authorities to monitor the steps that they have taken with a view to ensuring that they comply with regulations made for the purposes of subsection (3).

(5) Every local authority shall give such publicity to their arrangements for the provision of assistance under this section as they consider appropriate.]

Annotations:

Editorial Information

X4 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F217 S. 26A inserted (30.1.2004 for certain purposes and otherwise 1.4.2004) by 2002 c. 38, ss. 119, 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(3)(4)(b)**

F218 S. 26A(2A) inserted (1.4.2006 for W. and otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 116(3)**, 199; S.I. 2005/3285, **art. 2(2)(c)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F219 Words in s. 26A(2A) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, Sch. 14 para. 11, **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5(gg)(ii)**

F220 Words in s. 26A(3)(a) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 18**

F221 Words in s. 26A(4) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 18**

27 X5 Co-operation between authorities.

(1) Where it appears to a local authority that any authority F222. . . mentioned in subsection (3) could, by taking any specified action, help in the exercise of any of their functions under this Part, they may request the help of that other authority . . . specifying the action in question.

(2) An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.

(3) The **[**F223authorities**]** are—

(a) any local authority;

(b) any local education authority;

(c) any local housing authority;

(d) any **[**F224**[**F225Local Health Board**]** , Special Health Authority**][**F226, Primary Care Trust**][**F227, National Health Service trust or NHS foundation trust**]** ; and

(e) any person authorised by the **[**F228"appropriate national authority**]** for the purposes of this section.

F229(4) . . . . . .

Annotations:

Editorial Information

X5 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F222 Words in s. 27(1) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 14(a), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

F223 Word in s. 27(3) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 14(b)**; S.I. 1991/1883, art. 3, **Sch.**

F224 Words in s. 27(3)(d) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(5)(with Sch. 2, para. 6)

F225 Words in s. 27(3)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2**, 3 {Sch. para. 20(2)(d)}

F226 Words in s. 27(3)(d) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(5)**

F227 Words in s. 27(3)(d) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 78**; S.I. 2004/759, **art. 2**

F228 Words in s. 27(3)(e) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 19**

F229 S. 27(4) repealed (1.9.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 147, **Sch. 21 Pt. II**; S.I. 1994/2038, art. 3, **Sch. 2**, Appendix

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Commencement Information

I26 S. 27 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

28 [X6] Consultation with local education authorities.

(1) Where—

(a) a child is being looked after by a local authority; and

(b) the authority propose to provide accommodation for him in an establishment at which education is provided for children who are accommodated there, they shall, so far as is reasonably practicable, consult the appropriate local education authority before doing so.

(2) Where any such proposal is carried out, the local authority shall, as soon as is reasonably practicable, inform the appropriate local education authority of the arrangements that have been made for the child's accommodation.

(3) Where the child ceases to be accommodated as mentioned in subsection (1)(b), the local authority shall inform the appropriate local education authority.

(4) In this section "the appropriate local education authority" means—

(a) the local education authority within whose area the local authority's area falls; or,

(b) where the child has special educational needs and a statement of his needs is maintained under **[**[F230]Part IV of the Education Act 1996**]**, the local education authority who maintain the statement.

Annotations:

Editorial Information

X6 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F230 Words in s. 28(4) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para.84**(with s. 1(4))

Commencement Information

I27 S. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

29 [X7] Recoupment of cost of providing services etc.

(1) Where a local authority provide any service under section 17 or 18, other than advice, guidance or counselling, they may recover from a person specified in subsection (4) such charge for the service as they consider reasonable.

(2) Where the authority are satisfied that that person's means are insufficient for it to be reasonably practicable for him to pay the charge, they shall not require him to pay more than he can reasonably be expected to pay.

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(3) No person shall be liable to pay any charge under subsection (1) **[**F231for a service provided under section 17 or section 18(1) or (5)**]** at any time when he is in receipt of income support **[**F232under**]****[**F233Part VII of the Social Security Contributions and Benefits Act 1992**]****[**F234, of any element of child tax credit other than the family element, of working tax credit**]****[**F235**[**F236, of an income-based jobseeker's allowance or of an income-related employment and support allowance**]]**.

[F237(3A) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when he is in receipt of income support under Part VII of the Social Security Contributions and Benefits Act 1992 **[**F236, of an income-based jobseeker's allowance or of an income-related employment and support allowance**]** .**]**

[F238(3B) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when—

(a) he is in receipt of guarantee state pension credit under section 1(3)(a) of the State Pension Credit Act 2002, or

(b) he is a member of a **[**F239couple**]** (within the meaning of that Act) the other member of which is in receipt of guarantee state pension credit.**]**

(4) The persons are—

(a) where the service is provided for a child under sixteen, each of his parents;

(b) where it is provided for a child who has reached the age of sixteen, the child himself; and

(c) where it is provided for a member of the child's family, that member.

(5) Any charge under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(6) Part III of Schedule 2 makes provision in connection with contributions towards the maintenance of children who are being looked after by local authorities and consists of the re-enactment with modifications of provisions in Part V of the M15Child Care Act 1980.

(7) Where a local authority provide any accommodation under section 20(1) for a child who was (immediately before they began to look after him) ordinarily resident within the area of another local authority, they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

(8) Where a local authority provide accommodation under section 21(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority and they are not maintaining him in—

(a) a community home provided by them;

(b) a controlled community home; or

(c) a hospital vested in the Secretary of State **[**F240, the Welsh Ministers**]****[**F241or a Primary Care Trust**]****[**F242or any other hospital made available pursuant to arrangements made by **[**F243a Strategic Health Authority,**]** a **[**F244Local Health Board**]****[**F241or a Primary Care Trust,**]]**,

they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

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(9) **[**F245Except where subsection (10) applies,**]** Where a local authority comply with any request under section 27(2) in relation to a child or other person who is not ordinarily resident within their area, they may recover from the local authority in whose area the child or person is ordinarily resident any **[**F246reasonable expenses**]** incurred by them in respect of that person.

[F247(10) Where a local authority ("authority A") comply with any request under section 27(2) from another local authority ("authority B") in relation to a child or other person—

(a) whose responsible authority is authority B for the purposes of section 23B or 23C; or

(b) whom authority B are advising or befriending or to whom they are giving assistance by virtue of section 24(5)(a),

authority A may recover from authority B any reasonable expenses incurred by them in respect of that person.**]**

Annotations:

Editorial Information

X7 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F231 Words in s. 29(3) inserted (25.8.2000 in relation to E. and otherwise 28.7.2001) by 2000 c. 22, **ss. 103(1)**, 108(4); S.I. 2000/2420, **art. 2**

F232 Words in s. 29(3) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 18(a); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F233 Words in s. 29(3) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para 108(b)**.

F234 Words in s. 29(3) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 18(b); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F235 Words in s. 29(3) added (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(3)**; S.I. 1996/2208, **art. 2**

F236 Words in s. 29(3)(3A) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, {Sch, 3 para. 6(4)}; S.I. 2008/787, **art. 2(4)(f)**

F237 S. 29(3A) inserted (25.8.2000 in relation to E. and otherwise 28.7.2001) by 2000 c. 22, **ss. 103(1)**, 108(4); S.I. 2000/2420, **art. 2**

F238 S. 29(3B) inserted (2.7.2002 for certain purposes, otherwise 6.10.2003) by 2002 c. 16, s. 14, Sch. 2 para. 30; S.I. 2002/1691, art. 2; S.I. 2003/1766, **art. 2(a)**

F239 Words in s. 29(3B) substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), art. 4(4), **Sch. 4 para. 9**

F240 Words in s. 29(8)(c) inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 20**

F241 Words in s. 29(8)(c) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(6)**

F242 Words in s. 29(8)(c) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(3)**

F243 Words in s. 29(8)(c) inserted (1.10.2002) by S.I. 2002/2469, **reg. 4 Sch. 1 Pt. 1 para. 16(2)**

F244 Words in s. 29(8)(c) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2**, 3 {Sch. para. 20(2)(e)}

F245 Words in s. 29(9) inserted (1.10.2001) by 2000 c. 35, **s. 7(3)(a)**; S.I. 2001/2191, **art. 2**; 2001/2878, art. 2

F246 Words in s. 29(9) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 15**; S.I. 1991/1883, art. 3, **Sch.**

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F247 S. 29(10) inserted (1.10.2001) by 2000 c. 35, **s. 7(3)(b)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

Commencement Information

I28 S. 29 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M15 1980 c. 5.

X8 30 Miscellaneous.

(1) Nothing in this Part shall affect any duty imposed on a local authority by or under any other enactment.

(2) Any question arising under section 20(2), 21(3) or 29(7) to (9) as to the ordinary residence of a child shall be determined by agreement between the local authorities concerned or, in default of agreement, by the **[**F248determining authority**]**.

[F249(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,

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

(3) Where the functions conferred on a local authority by this Part and the functions of a local education authority are concurrent, the Secretary of State may by regulations provide by which authority the functions are to be exercised.

(4) The **[**F250appropriate national authority**]** may make regulations for determining, as respects any local education authority functions specified in the regulations, whether a child who is being looked after by a local authority is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.

Annotations:

Editorial Information

X8 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F248 Words in s. 30(2) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 21(2)**

F249 Words in s. 30(2A)(2B) inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 21(3)**

F250 Words in s. 30(4) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 21(4)**

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Commencement Information

I29 S. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F251X9 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.]

Annotations:

Editorial Information

X9 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Amendments (Textual)

F251 S. 30A inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 22**

PROSPECTIVE

Independent reviewing officers

25A Appointment of independent reviewing officer

(1) If a local authority are looking after a child, they must appoint an individual as the independent reviewing officer for that child's case.

(2) The initial appointment under subsection (1) must be made before the child's case is first reviewed in accordance with regulations made under section 26.

(3) If a vacancy arises in respect of a child's case, the local authority must make another appointment under subsection (1) as soon as is practicable.

(4) An appointee must be of a description prescribed in regulations made by the appropriate national authority.

25B Functions of the independent reviewing officer

(1) The independent reviewing officer must—

(a) monitor the performance by the local authority of their functions in relation to the child's case;

(b) participate, in accordance with regulations made by the appropriate national authority, in any review of the child's case;

(c) ensure that any ascertained wishes and feelings of the child concerning the case are given due consideration by the local authority;

(d) perform any other function which is prescribed in regulations made by the appropriate national authority.

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(2) An independent reviewing officer's functions must be performed—

(a) in such manner (if any) as may be prescribed in regulations made by the appropriate national authority; and

(b) having regard to such guidance as that authority may issue in relation to the discharge of those functions.

(3) If the independent reviewing officer considers it appropriate to do so, the child's case may be referred by that officer to—

(a) an officer of the Children and Family Court Advisory and Support Service; or

(b) a Welsh family proceedings officer.

(4) If the independent reviewing officer is not an officer of the local authority, it is the duty of the authority—

(a) to co-operate with that individual; and

(b) to take all such reasonable steps as that individual may require of them to enable that individual's functions under this section to be performed satisfactorily.

[F252 25C Referred cases

(1) In relation to children whose cases are referred to officers under section 25B(3), the Lord Chancellor may by regulations—

(a) extend any functions of the officers in respect of family proceedings (within the meaning of section 12 of the Criminal Justice and Court Services Act 2000) to other proceedings;

(b) require any functions of the officers to be performed in the manner prescribed by the regulations.

(2) The power to make regulations in this section is exercisable in relation to functions of Welsh family proceedings officers only with the consent of the Welsh Ministers.]

Annotations:

Amendments (Textual)

F252 S. 25C inserted (prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 10(2)**, 44

[F253X10 30M 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.]

Annotations:

Editorial Information

X10 The prospective insertion of the new heading "Independent reviewing officers" in Pt. III gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

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Amendments (Textual)

F253 S. 30A inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 22**

PART IV

CARE AND SUPERVISION

General

31 Care and Supervision

(1) On the application of any local authority or authorised person, the court may make an order—

(a) placing the child with respect to whom the application is made in the care of a designated local authority; or

(b) putting him under the supervision of a designated local authority [F254]. . ..

(2) A court may only make a care order or supervision order if it is satisfied—

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to—

(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or

(ii) the child's being beyond parental control.

(3) No care order or supervision order may be made with respect to a child who has reached the age of seventeen (or sixteen, in the case of a child who is married).

[[F255](3A) No care order may be made with respect to a child until the court has considered a section 31A plan.**]**

(4) An application under this section may be made on its own or in any other family proceedings.

(5) The court may—

(a) on an application for a care order, make a supervision order;

(b) on an application for a supervision order, make a care order.

(6) Where an authorised person proposes to make an application under this section he shall—

(a) if it is reasonably practicable to do so; and

(b) before making the application,

consult the local authority appearing to him to be the authority in whose area the child concerned is ordinarily resident.

(7) An application made by an authorised person shall not be entertained by the court if, at the time when it is made, the child concerned is—

(a) the subject of an earlier application for a care order, or supervision order, which has not been disposed of; or

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(b) subject to—

(i) a care order or supervision order;

[[F256](ii) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008; or**]**

(iii) a supervision requirement within the meaning of **[**[F257]Part II of the Children (Scotland) Act 1995**]**.

(8) The local authority designated in a care order must be—

(a) the authority within whose area the child is ordinarily resident; or

(b) where the child does not reside in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the order is being made.

(9) In this section—

"authorised person" means—

(a) the National Society for the Prevention of Cruelty to Children and any of its officers; and

(b) any person authorised by order of the Secretary of State to bring proceedings under this section and any officer of a body which is so authorised;

"harm" means ill-treatment or the impairment of health or development **[**[F258]including, for example, impairment suffered from seeing or hearing the ill-treatment of another**]**;

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

"health" means physical or mental health; and

"ill-treatment" includes sexual abuse and forms of ill-treatment which are not physical.

(10) Where the question of whether harm suffered by a child is significant turns on the child's health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.

(11) In this Act—

"a care order" means (subject to section 105(1)) an order under subsection (1)(a) and (except where express provision to the contrary is made) includes an interim care order made under section 38; and

"a supervision order" means an order under subsection (1)(b) and (except where express provision to the contrary is made) includes an interim supervision order made under section 38.

Annotations:

Amendments (Textual)

F254 Words in s. 31(1)(b) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 90, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

F255 S. 31(3A) inserted (30.12.2005) by 2002 c. 38, ss. 121(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F256 S. 31(7)(b)(ii) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 35** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(v)**

Status: *This version of this Act contains provisions that are prospective.*
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F257 Words in s. 31(7)(b)(iii) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 48(2)**(with ss. 90, 103(1)); S.I. 1996/3201, **art. 3(7)**

F258 S. 31(9): words in definition of "harm" inserted (31.1.2005) by 2002 c. 38, ss. 120, 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(2)**

Modifications etc. (not altering text)

C30 S. 31 applied (14.10.1991) by S.I. 1991/2032, **art. 3(1)**.

C31 S. 31(1)(a) extended (30.9.1998) by 1998 c. 37, **s. 12(6)(a)(7)**; S.I. 1998/2327, **art. 2(1)(c)** (subject to arts. 5-8)

C32 S. 31(2) modified (30.9.1998) by 1998 c. 37, **s. 12(7)**; S.I. 1998/2327, **art. 2(1)(c)** (subject to arts. 5-8).

Commencement Information

I30 S. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F259 31A Care orders: care plans

(1) Where an application is made on which a care order might be made with respect to a child, the appropriate local authority must, within such time as the court may direct, prepare a plan ("a care plan") for the future care of the child.

(2) While the application is pending, the authority must keep any care plan prepared by them under review and, if they are of the opinion some change is required, revise the plan, or make a new plan, accordingly.

(3) A care plan must give any prescribed information and do so in the prescribed manner.

(4) For the purposes of this section, the appropriate local authority, in relation to a child in respect of whom a care order might be made, is the local authority proposed to be designated in the order.

(5) In section 31(3A) and this section, references to a care order do not include an interim care order.

(6) A plan prepared, or treated as prepared, under this section is referred to in this Act as a "section 31A plan".**]**

Annotations:

Amendments (Textual)

F259 S. 31A inserted (7.12.2004 for specified purposes and otherwise 30.12.2005) by 2002 c. 38, ss. 121(2), 148 (with s. 121(3), Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(m)(xii)**; S.I. 2005/2213, **art. 2(k)**

32 Period within which application for order under this Part must be disposed of.

(1) A court hearing an application for an order under this Part shall (in the light of any rules made by virtue of subsection (2))—

(a) draw up a timetable with a view to disposing of the application without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may—

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(a) specify periods within which specified steps must be taken in relation to such proceedings; and

(b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that they are disposed of without delay.

Annotations:

Commencement Information

I31 S. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Care orders

33 Effect of care order.

(1) Where a care order is made with respect to a child it shall be the duty of the local authority designated by the order to receive the child into their care and to keep him in their care while the order remains in force.

(2) Where—

(a) a care order has been made with respect to a child on the application of an authorised person; but

(b) the local authority designated by the order was not informed that that person proposed to make the application,

the child may be kept in the care of that person until received into the care of the authority.

(3) While a care order is in force with respect to a child, the local authority designated by the order shall—

(a) have parental responsibility for the child; and

(b) have the power (subject to the following provisions of this section) to determine the extent to which **[**F260—

(i) a parent, guardian or special guardian of the child; or

(ii) a person who by virtue of section 4A has parental responsibility for the child,**]**

may meet his parental responsibility for him.

(4) The authority may not exercise the power in subsection (3)(b) unless they are satisfied that it is necessary to do so in order to safeguard or promote the child's welfare.

(5) Nothing in subsection (3)(b) shall prevent **[**F261a person mentioned in that provision who has care of the child**]** from doing what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting his welfare.

(6) While a care order is in force with respect to a child, the local authority designated by the order shall not—

(a) cause the child to be brought up in any religious persuasion other than that in which he would have been brought up if the order had not been made; or

(b) have the right—

(i) F262. . . . . .

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(ii) to agree or refuse to agree to the making of an adoption order, or an order under **[**F263section 84 of the Adoption and Children Act 2002**]**, with respect to the child; or

(iii) to appoint a guardian for the child.

(7) While a care order is in force with respect to a child, no person may—

(a) cause the child to be known by a new surname; or

(b) remove him from the United Kingdom,

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(8) Subsection (7)(b) does not—

(a) prevent the removal of such a child, for a period of less than one month, by the authority in whose care he is; or

(b) apply to arrangements for such a child to live outside England and Wales (which are governed by paragraph 19 of Schedule 2).

(9) The power in subsection (3)(b) is subject (in addition to being subject to the provisions of this section) to any right, duty, power, responsibility or authority which **[**F264a person mentioned in that provision**]** has in relation to the child and his property by virtue of any other enactment.

Annotations:

Amendments (Textual)

F260 Words in s. 33(3)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 63(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F261 Words in s. 33(5) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 63(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F262 S. 33(6)(b)(i) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 63(c)(i), Sch. 5 (with Sch. 4 para. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

F263 Words in s. 33(6)(b)(ii) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 63(c)(ii) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F264 Words in s. 33(9) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 63(d) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

I32 S. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

34 Parental contact etc. with children in care.

(1) Where a child is in the care of a local authority, the authority shall (subject to the provisions of this section) allow the child reasonable contact with—

(a) his parents;

(b) any guardian **[**F265or special guardian**]** of his;

[F266(ba) any person who by virtue of section 4A has parental responsibility for him;**]**

(c) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made; and

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(d) where, immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person.

(2) On an application made by the authority or the child, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and any named person.

(3) On an application made by—

(a) any person mentioned in paragraphs (a) to (d) of subsection (1); or

(b) any person who has obtained the leave of the court to make the application,

the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.

(4) On an application made by the authority or the child, the court may make an order authorising the authority to refuse to allow contact between the child and any person who is mentioned in paragraphs (a) to (d) of subsection (1) and named in the order.

(5) When making a care order with respect to a child, or in any family proceedings in connection with a child who is in the care of a local authority, the court may make an order under this section, even though no application for such an order has been made with respect to the child, if it considers that the order should be made.

(6) An authority may refuse to allow the contact that would otherwise be required by virtue of subsection (1) or an order under this section if—

(a) they are satisfied that it is necessary to do so in order to safeguard or promote the child's welfare; and

(b) the refusal—

(i) is decided upon as a matter of urgency; and

(ii) does not last for more than seven days.

(7) An order under this section may impose such conditions as the court considers appropriate.

(8) The Secretary of State may by regulations make provision as to—

(a) the steps to be taken by a local authority who have exercised their powers under subsection (6);

(b) the circumstances in which, and conditions subject to which, the terms of any order under this section may be departed from by agreement between the local authority and the person in relation to whom the order is made;

(c) notification by a local authority of any variation or suspension of arrangements made (otherwise than under an order under this section) with a view to affording any person contact with a child to whom this section applies.

(9) The court may vary or discharge any order made under this section on the application of the authority, the child concerned or the person named in the order.

(10) An order under this section may be made either at the same time as the care order itself or later.

(11) Before making a care order with respect to any child the court shall—

(a) consider the arrangements which the authority have made, or propose to make, for affording any person contact with a child to whom this section applies; and

(b) invite the parties to the proceedings to comment on those arrangements.

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Annotations:

Amendments (Textual)

F265 Words in s. 34(1)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 64(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F266 S. 34(1)(ba) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 64(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

I33 S. 34 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Supervision orders

35 Supervision orders.

(1) While a supervision order is in force it shall be the duty of the supervisor—

(a) to advise, assist and befriend the supervised child;

(b) to take such steps as are reasonably necessary to give effect to the order; and

(c) where—

(i) the order is not wholly complied with; or

(ii) the supervisor considers that the order may no longer be necessary,

to consider whether or not to apply to the court for its variation or discharge.

(2) Parts I and II of Schedule 3 make further provision with respect to supervision orders.

Annotations:

Commencement Information

I34 S. 35 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

36 Education supervision orders.

(1) On the application of any local education authority, the court may make an order putting the child with respect to whom the application is made under the supervision of a designated local education authority.

(2) In this Act "an education supervision order" means an order under subsection (1).

(3) A court may only make an education supervision order if it is satisfied that the child concerned is of compulsory school age and is not being properly educated.

(4) For the purposes of this section, a child is being properly educated only if he is receiving efficient full-time education suitable to his age, ability and aptitude and any special educational needs he may have.

(5) Where a child is—

(a) the subject of a school attendance order which is in force under **[**F267section 437 of the Education Act 1996**]** and which has not been complied with; or

[F268(b) is not attending regularly within the meaning of section 444 of that Act—

(i) a school at which he is a registered pupil,

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(ii) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA of that Act, or

(iii) any place which he is required to attend in the circumstances mentioned in subsection (2) of that section,**]**

then, unless it is proved that he is being properly educated, it shall be assumed that he is not.

(6) An education supervision order may not be made with respect to a child who is in the care of a local authority.

(7) The local education authority designated in an education supervision order must be—

(a) the authority within whose area the child concerned is living or will live; or

(b) where—

(i) the child is a registered pupil at a school; and

(ii) the authority mentioned in paragraph (a) and the authority within whose area the school is situated agree,

the latter authority.

(8) Where a local education authority propose to make an application for an education supervision order they shall, before making the application, consult the [F269]. . . appropriate local authority.

(9) The appropriate local authority is—

(a) in the case of a child who is being provided with accommodation by, or on behalf of, a local authority, that authority; and

(b) in any other case, the local authority within whose area the child concerned lives, or will live.

(10) Part III of Schedule 3 makes further provision with respect to education supervision orders.

Annotations:

Amendments (Textual)

F267 Words in s. 36(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 85(a)**(with s. 1(4))

F268 S. 36(5)(b) substituted (1.9.2005 for E. and 1.9.2006 for W.) by Education Act 2005 (c. 18), ss. 117, 119, **Sch. 18 para. 1**; S.I. 2005/2034, **art. 4**; S.I. 2006/1338, **art. 3**, Sch. 1

F269 Words in s. 36(8) repealed (1.10.1993) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 149, **Sch. 21 Pt. II**; S.I. 1993/1975, art. 9, **Sch. 1**, Appendix.

Commencement Information

I35 S. 36 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Powers of court

37 Powers of court in certain family proceedings.

(1) Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision

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order to be made with respect to him, the court may direct the appropriate authority to undertake an investigation of the child's circumstances.

(2) Where the court gives a direction under this section the local authority concerned shall, when undertaking the investigation, consider whether they should—

(a) apply for a care order or for a supervision order with respect to the child;

(b) provide services or assistance for the child or his family; or

(c) take any other action with respect to the child.

(3) Where a local authority undertake an investigation under this section, and decide not to apply for a care order or supervision order with respect to the child concerned, they shall inform the court of—

(a) their reasons for so deciding;

(b) any service or assistance which they have provided, or intend to provide, for the child and his family; and

(c) any other action which they have taken, or propose to take, with respect to the child.

(4) The information shall be given to the court before the end of the period of eight weeks beginning with the date of the direction, unless the court otherwise directs.

(5) The local authority named in a direction under subsection (1) must be—

(a) the authority in whose area the child is ordinarily resident; or

(b) where the child **[**F270is not ordinarily resident**]** in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the direction is being given.

(6) If, on the conclusion of any investigation or review under this section, the authority decide not to apply for a care order or supervision order with respect to the child—

(a) they shall consider whether it would be appropriate to review the case at a later date; and

(b) if they decide that it would be, they shall determine the date on which that review is to begin.

Annotations:

Amendments (Textual)

F270 Words in s. 37(5)(b) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 16**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I36 S. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

38 Interim orders.

(1) Where—

(a) in any proceedings on an application for a care order or supervision order, the proceedings are adjourned; or

(b) the court gives a direction under section 37(1),

the court may make an interim care order or an interim supervision order with respect to the child concerned.

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(2) A court shall not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in section 31(2).

(3) Where, in any proceedings on an application for a care order or supervision order, a court makes a residence order with respect to the child concerned, it shall also make an interim supervision order with respect to him unless satisfied that his welfare will be satisfactorily safeguarded without an interim order being made.

(4) An interim order made under or by virtue of this section shall have effect for such period as may be specified in the order, but shall in any event cease to have effect on whichever of the following events first occurs—

(a) the expiry of the period of eight weeks beginning with the date on which the order is made;

(b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, the expiry of the relevant period;

(c) in a case which falls within subsection (1)(a), the disposal of the application;

(d) in a case which falls within subsection (1)(b), the disposal of an application for a care order or supervision order made by the authority with respect to the child;

(e) in a case which falls within subsection (1)(b) and in which—

(i) the court has given a direction under section 37(4), but

(ii) no application for a care order or supervision order has been made with respect to the child,

the expiry of the period fixed by that direction.

(5) In subsection (4)(b) "the relevant period" means—

(a) the period of four weeks beginning with the date on which the order in question is made; or

(b) the period of eight weeks beginning with the date on which the first order was made if that period ends later than the period mentioned in paragraph (a).

(6) Where the court makes an interim care order, or interim supervision order, it may give such directions (if any) as it considers appropriate with regard to the medical or psychiatric examination or other assessment of the child; but if the child is of sufficient understanding to make an informed decision he may refuse to submit to the examination or other assessment.

(7) A direction under subsection (6) may be to the effect that there is to be—

(a) no such examination or assessment; or

(b) no such examination or assessment unless the court directs otherwise.

(8) A direction under subsection (6) may be—

(a) given when the interim order is made or at any time while it is in force; and

(b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.

(9) Paragraphs 4 and 5 of Schedule 3 shall not apply in relation to an interim supervision order.

(10) Where a court makes an order under or by virtue of this section it shall, in determining the period for which the order is to be in force, consider whether any party who was,

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or might have been, opposed to the making of the order was in a position to argue his case against the order in full.

Annotations:

Modifications etc. (not altering text)
C33 S. 38(1) restricted (14. 10. 1991) by S.I. 1991/1395, rules. 1,28

Commencement Information
I37 S. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F271 38A Power to include exclusion requirement in interim care order.

(1) Where—

(a) on being satisfied that there are reasonable grounds for believing that the circumstances with respect to a child are as mentioned in section 31(2)(a) and (b)(i), the court makes an interim care order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the interim care order.

(2) The conditions are—

(a) that there is reasonable cause to believe that, if a person ("the relevant person") is excluded from a dwelling-house in which the child lives, the child will cease to suffer, or cease to be likely to suffer, significant harm, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person)—

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following—

(a) a provision requiring the relevant person to leave a dwelling-house in which he is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the interim care order.

(5) Where the court makes an interim care order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.

(6) Where the court attaches a power of arrest to an exclusion requirement of an interim care order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.

(7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the interim care order.

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(8) Where a power of arrest is attached to an exclusion requirement of an interim care order by virtue of subsection (5), a constable may arrest without warrant any person whom he has reasonable cause to believe to be in breach of the requirement.

(9) Sections 47(7), (11) and (12) and 48 of, and Schedule 5 to, the Family Law Act 1996 shall have effect in relation to a person arrested under subsection (8) of this section as they have effect in relation to a person arrested under section 47(6) of that Act.

(10) If, while an interim care order containing an exclusion requirement is in force, the local authority have removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the interim care order shall cease to have effect in so far as it imposes the exclusion requirement.**]**

Annotations:

Amendments (Textual)

F271 Ss. 38A and 38B inserted*(1.10.1997)* by 1996 c. 27, ss. 52, **Sch. 6 para. 1**(with Sch. 9 para. 5); S.I. 1997/1892, **art.3**

F272 38B Undertakings relating to interim care orders.

(1) In any case where the court has power to include an exclusion requirement in an interim care order, the court may accept an undertaking from the relevant person.

(2) No power of arrest may be attached to any undertaking given under subsection (1).

(3) An undertaking given to a court under subsection (1)—

(a) shall be enforceable as if it were an order of the court, and

(b) shall cease to have effect if, while it is in force, the local authority have removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.

(4) This section has effect without prejudice to the powers of the High Court and county court apart from this section.

(5) In this section "exclusion requirement" and "relevant person" have the same meaning as in section 38A.

Annotations:

Amendments (Textual)

F272 Ss. 38A and 38B inserted (1.10.1997) by 1996 c. 27, s. 52, **Sch. 6 para.1** (with Sch. 9 para. 5); S.I. 1997/1892, **art.3**

39 Discharge and variation etc. of care orders and supervision orders.

(1) A care order may be discharged by the court on the application of—

(a) any person who has parental responsibility for the child;

(b) the child himself; or

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(c) the local authority designated by the order.

(2) A supervision order may be varied or discharged by the court on the application of—

(a) any person who has parental responsibility for the child;

(b) the child himself; or

(c) the supervisor.

(3) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person with whom the child is living, a supervision order may be varied by the court in so far as it imposes a requirement which affects that person.

[F273(3A) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an interim care order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(3B) Where a power of arrest has been attached to an exclusion requirement of an interim care order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).**]**

(4) Where a care order is in force with respect to a child the court may, on the application of any person entitled to apply for the order to be discharged, substitute a supervision order for the care order.

(5) When a court is considering whether to substitute one order for another under subsection (4) any provision of this Act which would otherwise require section 31(2) to be satisfied at the time when the proposed order is substituted or made shall be disregarded.

Annotations:

Amendments (Textual)

F273 S. 39(3A) and (3B) inserted*(1.10.1997)* by 1996 c. 27, ss. 52, 67(3), **Sch. 6 para.2**; S.I. 1997/1892, **art. 3**

Commencement Information

I38 S. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

40 Orders pending appeals in cases about care or supervision orders.

(1) Where—

(a) a court dismisses an application for a care order; and

(b) at the time when the court dismisses the application, the child concerned is the subject of an interim care order,

the court may make a care order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(2) Where—

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(a) a court dismisses an application for a care order, or an application for a supervision order; and

(b) at the time when the court dismisses the application, the child concerned is the subject of an interim supervision order,

the court may make a supervision order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(3) Where a court grants an application to discharge a care order or supervision order, it may order that—

(a) its decision is not to have effect; or

(b) the care order, or supervision order, is to continue to have effect but subject to such directions as the court sees fit to include in the order.

(4) An order made under this section shall only have effect for such period, not exceeding the appeal period, as may be specified in the order.

(5) Where—

(a) an appeal is made against any decision of a court under this section; or

(b) any application is made to the appellate court in connection with a proposed appeal against that decision,

the appellate court may extend the period for which the order in question is to have effect, but not so as to extend it beyond the end of the appeal period.

(6) In this section "the appeal period" means—

(a) where an appeal is made against the decision in question, the period between the making of that decision and the determination of the appeal; and

(b) otherwise, the period during which an appeal may be made against the decision.

Annotations:

Commencement Information

I39 S. 40 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Guardians ad litem

41 [F274Representation of child]

(1) or the purpose of any specified proceedings, the court shall appoint **[**F275an officer of the Service**][**F276or a Welsh family proceedings officer**]** for the child concerned unless satisfied that it is not necessary to do so in order to safeguard his interests.

(2) The **[**F275officer of the Service**][**F277or Welsh family proceedings officer**]** shall—

(a) be appointed in accordance with rules of court; and

(b) be under a duty to safeguard the interests of the child in the manner prescribed by such rules.

(3) Where—

(a) the child concerned is not represented by a solicitor; and

(b) any of the conditions mentioned in subsection (4) is satisfied,

the court may appoint a solicitor to represent him.

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(4) The conditions are that—

(a) no **[**F275officer of the Service**][**F277or Welsh family proceedings officer**]** has been appointed for the child;

(b) the child has sufficient understanding to instruct a solicitor and wishes to do so;

(c) it appears to the court that it would be in the child's best interests for him to be represented by a solicitor.

(5) Any solicitor appointed under or by virtue of this section shall be appointed, and shall represent the child, in accordance with rules of court.

(6) In this section "specified proceedings" means any proceedings—

(a) on an application for a care order or supervision order;

(b) in which the court has given a direction under section 37(1) and has made, or is considering whether to make, an interim care order;

(c) on an application for the discharge of a care order or the variation or discharge of a supervision order;

(d) on an application under section 39(4);

(e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;

(f) with respect to contact between a child who is the subject of a care order and any other person;

(g) under Part V;

(h) on an appeal against—

(i) the making of, or refusal to make, a care order, supervision order or any order under section 34;

(ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order; or

(iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in sub-paragraph (i) or (ii);

(iv) the refusal of an application under section 39(4); or

(v) the making of, or refusal to make, an order under Part V; or

[F278(hh) on an application for the making or revocation of a placement order (within the meaning of section 21 of the Adoption and Children Act 2002);**]**

(i) which are specified for the time being, for the purposes of this section, by rules of court.

[F279(6A) The proceedings which may be specified under subsection (6)(i) include (for example) proceedings for the making, varying or discharging of a section 8 order.**]**

F280(7) . . . . . .

(8) . . . . . .

(9) . . . . . .

(10) Rules of court may make provision as to—

(a) the assistance which any **[**F275officer of the Service**][**F281or Welsh family proceedings officer**]** may be required by the court to give to it;

(b) the consideration to be given by any **[**F275officer of the Service**][**F281or Welsh family proceedings officer**]** , where an order of a specified kind has been made

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in the proceedings in question, as to whether to apply for the variation or discharge of the order;

(c) the participation of **[**F275officers of the Service**][**F282or Welsh family proceedings officers**]** in reviews, of a kind specified in the rules, which are conducted by the court.

(11) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of—

(a) any statement contained in a report made by **[**F275an officer of the Service**][**F283or a Welsh family proceedings officer**]** who is appointed under this section for the purpose of the proceedings in question; and

(b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which the court is considering.

(12) . . . . . .

Annotations:

Amendments (Textual)

F274 S. 41 side note substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 91(e)**; S.I. 2001/919, **art. 2(f)(ii)**

F275 Words in s. 41(1)(2)(4)(a)(10)(a)(b)(c)(11)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 91(a)(b)(c)**; S.I. 2001/919, **art. 2(f)(ii)**

F276 Words in s. 41(1) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 9(2)**; S.I. 2005/700, **art. 2(2)**

F277 Words in s. 41(2)(4)(a) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 9(3)**; S.I. 2005/700, **art. 2(2)**

F278 S. 41(6)(hh) inserted (30.12.2005) by 2002 c. 38, ss. 122(1)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

F279 S. 41(6A) inserted (7.12.2004) by 2002 c. 38, ss. 122(1)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(l)**

F280 S. 41(7)-(9)(12) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 91(d), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

F281 Words in s. 41(10)(a)(b) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 9(4)(a)**; S.I. 2005/700, **art. 2(2)**

F282 Words in s. 41(10)(c) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 9(4)(b)**; S.I. 2005/700, **art. 2(2)**

F283 Words in s. 41(11) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 9(5)**; S.I. 2005/700, **art. 2(2)**

Modifications etc. (not altering text)

C34 S. 41(2) modified (14. 10. 1991) by S.I. 1991/1395, rules. 1, 11(1)

Commencement Information

I40 S. 41 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

42 [F284Right of officer of the Service to have access to local authority records]

(1) Where **[**F285an officer of the Service**][**F286or Welsh family proceedings officer**]** has been appointed **[**F287under section 41**]** he shall have the right at all reasonable times to examine and take copies of—

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(a) any records of, or held by, a local authority **[**F288or an authorised person**]**which were compiled in connection with the making, or proposed making, by any person of any application under this Act with respect to the child concerned; F289. . .

(b) any . . . records of, or held by, a local authority which were compiled in connection with any functions which **[**F290are social services functions within the meaning of**]** the M16Local Authority Social Services Act 1970, so far as those records relate to that child.

[F291; or

(c) any records of, or held by, an authorised person which were compiled in connection with the activities of that person, so far as those records relate to that child.**]**

(2) Where **[**F292an officer of the Service**][**F286or Welsh family proceedings officer**]** takes a copy of any record which he is entitled to examine under this section, that copy or any part of it shall be admissible as evidence of any matter referred to in any—

(a) report which he makes to the court in the proceedings in question; or

(b) evidence which he gives in those proceedings.

(3) Subsection (2) has effect regardless of any enactment or rule of law which would otherwise prevent the record in question being admissible in evidence.

[F293(4) In this section "authorised person" has the same meaning as in section 31.**]**

Annotations:

Amendments (Textual)

F284 S. 42 sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch.7 Pt. II para. 92(c)**; S.I. 2001/919, **art. 2(f)(ii)**

F285 Words in s. 42(1) substituted (1.4.2001) by 2000 c. 43, s. 74, 80, **Sch. 7 Pt. II para. 92(a)(i)**; S.I. 2001/919, **art. 2(f)(ii)**

F286 Words in s. 42(1)(2) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 10**; S.I. 2005/700, **art. 2(2)**

F287 Words in s. 42(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 92(a)(ii)**; S.I. 2001/919, **art. 2(f)(ii)**

F288 Words in s. 42(1)(a) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 18(2)**; S.I. 1991/1883, art. 3, **Sch.**

F289 Words in s. 42(1) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

F290 Words in s. 42(1)(b) substituted (26.10.2000 for E. and otherwise 28.7.2001) by 2000 c. 22, ss. 107, 108(4), **Sch. 5 para. 20**; S.I. 2000/2849, **art. 2(f)**

F291 S. 42(1)(c) added (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, **Sch. 16 para. 18(3)**; S.I. 1991/1883, art. 3, **Sch.**

F292 Words in s. 42(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 92(b)**; S.I. 2001/919, **art. 2(f)(ii)**

F293 S. 42(4) added (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 18(4)**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I41 S. 42 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Marginal Citations
M16 1970 c. 42.

PART V

PROTECTION OF CHILDREN

43 Child assessment orders.

(1) On the application of a local authority or authorised person for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that—

(a) the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm;

(b) an assessment of the state of the child's health or development, or of the way in which he has been treated, is required to enable the applicant to determine whether or not the child is suffering, or is likely to suffer, significant harm; and

(c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an order under this section.

(2) In this Act "a child assessment order" means an order under this section.

(3) A court may treat an application under this section as an application for an emergency protection order.

(4) No court shall make a child assessment order if it is satisfied—

(a) that there are grounds for making an emergency protection order with respect to the child; and

(b) that it ought to make such an order rather than a child assessment order.

(5) A child assessment order shall—

(a) specify the date by which the assessment is to begin; and

(b) have effect for such period, not exceeding 7 days beginning with that date, as may be specified in the order.

(6) Where a child assessment order is in force with respect to a child it shall be the duty of any person who is in a position to produce the child—

(a) to produce him to such person as may be named in the order; and

(b) to comply with such directions relating to the assessment of the child as the court thinks fit to specify in the order.

(7) A child assessment order authorises any person carrying out the assessment, or any part of the assessment, to do so in accordance with the terms of the order.

(8) Regardless of subsection (7), if the child is of sufficient understanding to make an informed decision he may refuse to submit to a medical or psychiatric examination or other assessment.

(9) The child may only be kept away from home—

(a) in accordance with directions specified in the order;

(b) if it is necessary for the purposes of the assessment; and

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(c) for such period or periods as may be specified in the order.

(10) Where the child is to be kept away from home, the order shall contain such directions as the court thinks fit with regard to the contact that he must be allowed to have with other persons while away from home.

(11) Any person making an application for a child assessment order shall take such steps as are reasonably practicable to ensure that notice of the application is given to—

(a) the child's parents;

(b) any person who is not a parent of his but who has parental responsibility for him;

(c) any other person caring for the child;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under section 34; and

(f) the child,

before the hearing of the application.

(12) Rules of court may make provision as to the circumstances in which—

(a) any of the persons mentioned in subsection (11); or

(b) such other person as may be specified in the rules,

may apply to the court for a child assessment order to be varied or discharged.

(13) In this section "authorised person" means a person who is an authorised person for the purposes of section 31.

Annotations:

Commencement Information

I42 S. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

44 Orders for emergency protection of children.

(1) Where any person ("the applicant") applies to the court for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that—

(a) there is reasonable cause to believe that the child is likely to suffer significant harm if—

(i) he is not removed to accommodation provided by or on behalf of the applicant; or

(ii) he does not remain in the place in which he is then being accommodated;

(b) in the case of an application made by a local authority—

(i) enquiries are being made with respect to the child under section 47(1)(b); and

(ii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and that the applicant has reasonable cause to believe that access to the child is required as a matter of urgency; or

(c) in the case of an application made by an authorised person—

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(i) the applicant has reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm;

(ii) the applicant is making enquiries with respect to the child's welfare; and

(iii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.

(2) In this section—

(a) "authorised person" means a person who is an authorised person for the purposes of section 31; and

(b) "a person authorised to seek access" means—

(i) in the case of an application by a local authority, an officer of the local authority or a person authorised by the authority to act on their behalf in connection with the enquiries; or

(ii) in the case of an application by an authorised person, that person.

(3) Any person—

(a) seeking access to a child in connection with enquiries of a kind mentioned in subsection (1); and

(b) purporting to be a person authorised to do so,

shall, on being asked to do so, produce some duly authenticated document as evidence that he is such a person.

(4) While an order under this section ("an emergency protection order") is in force it—

(a) operates as a direction to any person who is in a position to do so to comply with any request to produce the child to the applicant;

(b) authorises—

(i) the removal of the child at any time to accommodation provided by or on behalf of the applicant and his being kept there; or

(ii) the prevention of the child's removal from any hospital, or other place, in which he was being accommodated immediately before the making of the order; and

(c) gives the applicant parental responsibility for the child.

(5) Where an emergency protection order is in force with respect to a child, the applicant —

(a) shall only exercise the power given by virtue of subsection (4)(b) in order to safeguard the welfare of the child;

(b) shall take, and shall only take, such action in meeting his parental responsibility for the child as is reasonably required to safeguard or promote the welfare of the child (having regard in particular to the duration of the order); and

(c) shall comply with the requirements of any regulations made by the Secretary of State for the purposes of this subsection.

(6) Where the court makes an emergency protection order, it may give such directions (if any) as it considers appropriate with respect to—

(a) the contact which is, or is not, to be allowed between the child and any named person;

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(b) the medical or psychiatric examination or other assessment of the child.

(7) Where any direction is given under subsection (6)(b), the child may, if he is of sufficient understanding to make an informed decision, refuse to submit to the examination or other assessment.

(8) A direction under subsection (6)(a) may impose conditions and one under subsection (6)(b) may be to the effect that there is to be—

(a) no such examination or assessment; or

(b) no such examination or assessment unless the court directs otherwise.

(9) A direction under subsection (6) may be—

(a) given when the emergency protection order is made or at any time while it is in force; and

(b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.

(10) Where an emergency protection order is in force with respect to a child and—

(a) the applicant has exercised the power given by subsection (4)(b)(i) but it appears to him that it is safe for the child to be returned; or

(b) the applicant has exercised the power given by subsection (4)(b)(ii) but it appears to him that it is safe for the child to be allowed to be removed from the place in question,

he shall return the child or (as the case may be) allow him to be removed.

(11) Where he is required by subsection (10) to return the child the applicant shall—

(a) return him to the care of the person from whose care he was removed; or

(b) if that is not reasonably practicable, return him to the care of—

(i) a parent of his;

(ii) any person who is not a parent of his but who has parental responsibility for him; or

(iii) such other person as the applicant (with the agreement of the court) considers appropriate.

(12) Where the applicant has been required by subsection (10) to return the child, or to allow him to be removed, he may again exercise his powers with respect to the child (at any time while the emergency protection order remains in force) if it appears to him that a change in the circumstances of the case makes it necessary for him to do so.

(13) Where an emergency protection order has been made with respect to a child, the applicant shall, subject to any direction given under subsection (6), allow the child reasonable contact with—

(a) his parents;

(b) any person who is not a parent of his but who has parental responsibility for him;

(c) any person with whom he was living immediately before the making of the order;

(d) any person in whose favour a contact order is in force with respect to him;

(e) any person who is allowed to have contact with the child by virtue of an order under section 34; and

(f) any person acting on behalf of any of those persons.

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(14) Wherever it is reasonably practicable to do so, an emergency protection order shall name the child; and where it does not name him it shall describe him as clearly as possible.

(15) A person shall be guilty of an offence if he intentionally obstructs any person exercising the power under subsection (4)(b) to remove, or prevent the removal of, a child.

(16) A person guilty of an offence under subsection (15) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Annotations:

Commencement Information

I43 S. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F294 44A Power to include exclusion requirement in emergency protection order.

(1) Where—

(a) on being satisfied as mentioned in section 44(1)(a), (b) or (c), the court makes an emergency protection order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the emergency protection order.

(2) The conditions are—

(a) that there is reasonable cause to believe that, if a person ("the relevant person") is excluded from a dwelling-house in which the child lives, then—

(i) in the case of an order made on the ground mentioned in section 44(1)(a), the child will not be likely to suffer significant harm, even though the child is not removed as mentioned in section 44(1)(a)(i) or does not remain as mentioned in section 44(1)(a)(ii), or

(ii) in the case of an order made on the ground mentioned in paragraph (b) or (c) of section 44(1), the enquiries referred to in that paragraph will cease to be frustrated, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person)—

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following—

(a) a provision requiring the relevant person to leave a dwelling-house in which he is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the order.

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(5) Where the court makes an emergency protection order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.

(6) Where the court attaches a power of arrest to an exclusion requirement of an emergency protection order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.

(7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the emergency protection order.

(8) Where a power of arrest is attached to an exclusion requirement of an emergency protection order by virtue of subsection (5), a constable may arrest without warrant any person whom he has reasonable cause to believe to be in breach of the requirement.

(9) Sections 47(7), (11) and (12) and 48 of, and Schedule 5 to, the Family Law Act 1996 shall have effect in relation to a person arrested under subsection (8) of this section as they have effect in relation to a person arrested under section 47(6) of that Act.

(10) If, while an emergency protection order containing an exclusion requirement is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the order shall cease to have effect in so far as it imposes the exclusion requirement.**]**

Annotations:

Amendments (Textual)

F294 Ss. 44A and 44B inserted*(1.10.1997)* by 1996 c. 27, s. 52, **Sch. 6 para. 3**(with Sch. 9 para. 5); S.I. 1997/1892, **art. 3**

F295 44B Undertakings relating to emergency protection orders.

(1) In any case where the court has power to include an exclusion requirement in an emergency protection order, the court may accept an undertaking from the relevant person.

(2) No power of arrest may be attached to any undertaking given under subsection (1).

(3) An undertaking given to a court under subsection (1)—

(a) shall be enforceable as if it were an order of the court, and

(b) shall cease to have effect if, while it is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.

(4) This section has effect without prejudice to the powers of the High Court and county court apart from this section.

(5) In this section "exclusion requirement" and "relevant person" have the same meaning as in section 44A.

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Annotations:

Amendments (Textual)

F295 Ss. 44A and 44B inserted*(1.10.1997)* by 1996 c. 27, ss. 52, **Sch. 6 para. 3**(with Sch 9 para. 5); S.I. 1997/1892, **art.3**

45 Duration of emergency protection orders and other supplemental provisions.

(1) An emergency protection order shall have effect for such period, not exceeding eight days, as may be specified in the order.

(2) Where—

(a) the court making an emergency protection order would, but for this subsection, specify a period of eight days as the period for which the order is to have effect; but

(b) the last of those eight days is a public holiday (that is to say, Christmas Day, Good Friday, a bank holiday or a Sunday),

the court may specify a period which ends at noon on the first later day which is not such a holiday.

(3) Where an emergency protection order is made on an application under section 46(7), the period of eight days mentioned in subsection (1) shall begin with the first day on which the child was taken into police protection under section 46.

(4) Any person who—

(a) has parental responsibility for a child as the result of an emergency protection order; and

(b) is entitled to apply for a care order with respect to the child,

may apply to the court for the period during which the emergency protection order is to have effect to be extended.

(5) On an application under subsection (4) the court may extend the period during which the order is to have effect by such period, not exceeding seven days, as it thinks fit, but may do so only if it has reasonable cause to believe that the child concerned is likely to suffer significant harm if the order is not extended.

(6) An emergency protection order may only be extended once.

(7) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, a court hearing an application for, or with respect to, an emergency protection order may take account of—

(a) any statement contained in any report made to the court in the course of, or in connection with, the hearing; or

(b) any evidence given during the hearing,

which is, in the opinion of the court, relevant to the application.

(8) Any of the following may apply to the court for an emergency protection order to be discharged—

(a) the child;

(b) a parent of his;

(c) any person who is not a parent of his but who has parental responsibility for him; or

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(d) any person with whom he was living immediately before the making of the order.

[F296(8A) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an emergency protection order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(8B) Where a power of arrest has been attached to an exclusion requirement of an emergency protection order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).**]**

(9) F297. . . . . .

[F298F299(10) No appeal may be made against—

(a) the making of, or refusal to make, an emergency protection order;

(b) the extension of, or refusal to extend, the period during which such an order is to have effect;

(c) the discharge of, or refusal to discharge, such an order; or

(d) the giving of, or refusal to give, any direction in connection with such an order.**]**

(11) Subsection (8) does not apply—

(a) where the person who would otherwise be entitled to apply for the emergency protection order to be discharged—

(i) was given notice (in accordance with rules of court) of the hearing at which the order was made; and

(ii) was present at that hearing; or

(b) to any emergency protection order the effective period of which has been extended under subsection (5).

(12) A court making an emergency protection order may direct that the applicant may, in exercising any powers which he has by virtue of the order, be accompanied by a registered medical practitioner, registered nurse or **[**F300registered midwife**]**, if he so chooses.

[F298(13) The reference in subsection (12) to a registered midwife is to such a midwife who is also registered in the Specialist Community Public Health Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001.**]**

Annotations:

Amendments (Textual)

F296 S. 45(8A)(8B) inserted (1.10.1997) by 1996 c. 27, s. 52, **Sch. 6 para. 4**(with Sch. 9 para. 5); S.I. 1997/1892, **art. 3**

F297 S. 45(9) repealed (6.4.2009) by Children and Young Persons Act 2008 (c. 23), ss. 30, 42, **Sch. 4**; S.I. 2009/268, **art. 3(3)(b)**; S.I. 2009/728, **art. 2(a)(c)**

F298 S. 45(13) added (1.8.2004) by The Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004 (S.I. 2004/1771), art. 3, **Sch. para. 4(a)**

F299 S. 45(10) substituted (14.10.1991) by Courts and Legal Services Act (c. 41, SIF 76:1), s. 116, Sch. 16 para. 19; S.I. 1991/1883, art. 3, **Sch.**

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F300 Words in s. 45(12) substituted by S.I. 2002/253, art. 54, **Sch. 5 para. 10(a)** (with art. 3(18)) (the substitution coming into force in accordance with art. 1(2)(3) of the said S.I. 2002/253)

Commencement Information

I44 S. 45 in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, **art. 3(2)**

46 Removal and accommodation of children by police in cases of emergency.

(1) Where a constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, he may—

(a) remove the child to suitable accommodation and keep him there; or

(b) take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which he is then being accommodated is prevented.

(2) For the purposes of this Act, a child with respect to whom a constable has exercised his powers under this section is referred to as having been taken into police protection.

(3) As soon as is reasonably practicable after taking a child into police protection, the constable concerned shall—

(a) inform the local authority within whose area the child was found of the steps that have been, and are proposed to be, taken with respect to the child under this section and the reasons for taking them;

(b) give details to the authority within whose area the child is ordinarily resident ("the appropriate authority") of the place at which the child is being accommodated;

(c) inform the child (if he appears capable of understanding)—

(i) of the steps that have been taken with respect to him under this section and of the reasons for taking them; and

(ii) of the further steps that may be taken with respect to him under this section;

(d) take such steps as are reasonably practicable to discover the wishes and feelings of the child;

(e) secure that the case is inquired into by an officer designated for the purposes of this section by the chief officer of the police area concerned; and

(f) where the child was taken into police protection by being removed to accommodation which is not provided—

(i) by or on behalf of a local authority; or

(ii) as a refuge, in compliance with the requirements of section 51,secure that he is moved to accommodation which is so provided.

(4) As soon as is reasonably practicable after taking a child into police protection, the constable concerned shall take such steps as are reasonably practicable to inform—

(a) the child's parents;

(b) every person who is not a parent of his but who has parental responsibility for him; and

(c) any other person with whom the child was living immediately before being taken into police protection,

of the steps that he has taken under this section with respect to the child, the reasons for taking them and the further steps that may be taken with respect to him under this section.

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(5) On completing any inquiry under subsection (3)(e), the officer conducting it shall release the child from police protection unless he considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.

(6) No child may be kept in police protection for more than 72 hours.

(7) While a child is being kept in police protection, the designated officer may apply on behalf of the appropriate authority for an emergency protection order to be made under section 44 with respect to the child.

(8) An application may be made under subsection (7) whether or not the authority know of it or agree to its being made.

(9) While a child is being kept in police protection—

(a) neither the constable concerned nor the designated officer shall have parental responsibility for him; but

(b) the designated officer shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be so protected).

(10) Where a child has been taken into police protection, the designated officer shall allow —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for him;

(c) any person with whom the child was living immediately before he was taken into police protection;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under section 34; and

(f) any person acting on behalf of any of those persons,

to have such contact (if any) with the child as, in the opinion of the designated officer, is both reasonable and in the child's best interests.

(11) Where a child who has been taken into police protection is in accommodation provided by, or on behalf of, the appropriate authority, subsection (10) shall have effect as if it referred to the authority rather than to the designated officer.

Annotations:

Commencement Information

I45 S. 46 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

47 Local authority's duty to investigate.

(1) Where a local authority—

(a) are informed that a child who lives, or is found, in their area—

(i) is the subject of an emergency protection order; or

(ii) is in police protection; [F301]...

(iii) . . . . . .

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(b) have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm,

the authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare. [F302]...

(2) Where a local authority have obtained an emergency protection order with respect to a child, they shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide what action they should take to safeguard or promote the child's welfare.

(3) The enquiries shall, in particular, be directed towards establishing—

(a) whether the authority should make any application to the court, or exercise any of their other powers under this Act **[**[F303]or section 11 of the Crime and Disorder Act 1998 (child safety orders)**]**, with respect to the child;

(b) whether, in the case of a child—

(i) with respect to whom an emergency protection order has been made; and

(ii) who is not in accommodation provided by or on behalf of the authority,

it would be in the child's best interests (while an emergency protection order remains in force) for him to be in such accommodation; and

(c) whether, in the case of a child who has been taken into police protection, it would be in the child's best interests for the authority to ask for an application to be made under section 46(7).

(4) Where enquiries are being made under subsection (1) with respect to a child, the local authority concerned shall (with a view to enabling them to determine what action, if any, to take with respect to him) take such steps as are reasonably practicable—

(a) to obtain access to him; or

(b) to ensure that access to him is obtained, on their behalf, by a person authorised by them for the purpose,

unless they are satisfied that they already have sufficient information with respect to him.

(5) Where, as a result of any such enquiries, it appears to the authority that there are matters connected with the child's education which should be investigated, they shall consult the relevant local education authority.

[[F304](5A) For the purposes of making a determination under this section as to the action to be taken with respect to a child, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—

(a) ascertain the child's wishes and feelings regarding the action to be taken with respect to him; and

(b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.**]**

(6) Where, in the course of enquiries made under this section—

(a) any officer of the local authority concerned; or

(b) any person authorised by the authority to act on their behalf in connection with those enquiries—

(i) is refused access to the child concerned; or

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(ii) is denied information as to his whereabouts,

the authority shall apply for an emergency protection order, a child assessment order, a care order or a supervision order with respect to the child unless they are satisfied that his welfare can be satisfactorily safeguarded without their doing so.

(7) If, on the conclusion of any enquiries or review made under this section, the authority decide not to apply for an emergency protection order, a child assessment order, a care order or a supervision order they shall—

(a) consider whether it would be appropriate to review the case at a later date; and

(b) if they decide that it would be, determine the date on which that review is to begin.

(8) Where, as a result of complying with this section, a local authority conclude that they should take action to safeguard or promote the child's welfare they shall take that action (so far as it is both within their power and reasonably practicable for them to do so).

(9) Where a local authority are conducting enquiries under this section, it shall be the duty of any person mentioned in subsection (11) to assist them with those enquiries (in particular by providing relevant information and advice) if called upon by the authority to do so.

(10) Subsection (9) does not oblige any person to assist a local authority where doing so would be unreasonable in all the circumstances of the case.

(11) The persons are—

(a) any local authority;

(b) any local education authority;

(c) any local housing authority;

(d) any **[**F305**[**F306Local Health Board**]** , Special Health Authority**][**F307, Primary Care Trust**][**F308, National Health Service trust or NHS foundation trust**]**; and

(e) any person authorised by the Secretary of State for the purposes of this section.

(12) Where a local authority are making enquiries under this section with respect to a child who appears to them to be ordinarily resident within the area of another authority, they shall consult that other authority, who may undertake the necessary enquiries in their place.

Annotations:

Amendments (Textual)

F301 S. 47(1)(a)(iii) and preceding word repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(a), **Sch. 8 Pt. 13**

F302 Words in s. 47(1) repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(a), **Sch. 8 Pt. 13**

F303 Words in s. 47(3)(a) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 69**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)** (subject to arts. 5-8).

F304 S. 47(5A) inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 53(3)**; S.I. 2005/394, **art. 2(1)(g)**; S.I. 2006/885, **art. 2(2)(d)**

F305 Words in s. 47(11)(d) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(7)(with Sch. 2 para. 6)

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F306 Words in s. 47(11)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2**, 3 {Sch. para. 20(2)(f)}
F307 Words in s. 47(11)(d) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(7)**
F308 Words in s. 47(11)(d) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 79**; S.I. 2004/759, **art. 2**

Commencement Information
I46 S. 47 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

48 Powers to assist in discovery of children who may be in need of emergency protection.

(1) Where it appears to a court making an emergency protection order that adequate information as to the child's whereabouts—

(a) is not available to the applicant for the order; but

(b) is available to another person,

it may include in the order a provision requiring that other person to disclose, if asked to do so by the applicant, any information that he may have as to the child's whereabouts.

(2) No person shall be excused from complying with such a requirement on the ground that complying might incriminate him or his spouse **[**F309or civil partner**]** of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for any offence other than perjury.

(3) An emergency protection order may authorise the applicant to enter premises specified by the order and search for the child with respect to whom the order is made.

(4) Where the court is satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, it may make an order authorising the applicant to search for that other child on those premises.

(5) Where—

(a) an order has been made under subsection (4);

(b) the child concerned has been found on the premises; and

(c) the applicant is satisfied that the grounds for making an emergency protection order exist with respect to him,

the order shall have effect as if it were an emergency protection order.

(6) Where an order has been made under subsection (4), the applicant shall notify the court of its effect.

(7) A person shall be guilty of an offence if he intentionally obstructs any person exercising the power of entry and search under subsection (3) or (4).

(8) A person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Where, on an application made by any person for a warrant under this section, it appears to the court—

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(a) that a person attempting to exercise powers under an emergency protection order has been prevented from doing so by being refused entry to the premises concerned or access to the child concerned; or

(b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any constable to assist the person mentioned in paragraph (a) or (b) in the exercise of those powers using reasonable force if necessary.

(10) Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—

(a) that person so desires; and

(b) the court by whom the warrant is issued does not direct otherwise.

(11) A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or **[**F310registered midwife**]** if he so chooses.

[F311(11A) The reference in subsection (11) to a registered midwife is to such a midwife who is also registered in the Specialist Community Public Health Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001.**]**

(12) An application for a warrant under this section shall be made in the manner and form prescribed by rules of court.

(13) Wherever it is reasonably practicable to do so, an order under subsection (4), an application for a warrant under this section and any such warrant shall name the child; and where it does not name him it shall describe him as clearly as possible.

Annotations:

Amendments (Textual)

F309 Words in s. 48(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 261(1), **Sch. 27 para. 130**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F310 Words in s. 48(11) substituted by S.I. 2002/253, art. 54, **Sch. 5 para. 10(b)** (with art. 3(18)) (the substitution coming into force in accordance with art. 1(2)(3) of the said S.I. 2002/253)

F311 S. 48(11A) inserted (1.8.2004) by The Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004 (S.I. 2004/1771), art. 3, **Sch. para. 4(b)**

Commencement Information

I47 S. 48 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

49 Abduction of children in care etc.

(1) A person shall be guilty of an offence if, knowingly and without lawful authority or reasonable excuse, he—

(a) takes a child to whom this section applies away from the responsible person;

(b) keeps such a child away from the responsible person; or

(c) induces, assists or incites such a child to run away or stay away from the responsible person.

(2) This section applies in relation to a child who is—

(a) in care;

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(b) the subject of an emergency protection order; or

(c) in police protection,

and in this section "the responsible person" means any person who for the time being has care of him by virtue of the care order, the emergency protection order, or section 46, as the case may be.

(3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

Annotations:

Commencement Information

I48 S. 49 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828 art. 3(2))

50 Recovery of abducted children etc.

(1) Where it appears to the court that there is reason to believe that a child to whom this section applies—

(a) has been unlawfully taken away or is being unlawfully kept away from the responsible person;

(b) has run away or is staying away from the responsible person; or

(c) is missing,

the court may make an order under this section ("a recovery order").

(2) This section applies to the same children to whom section 49 applies and in this section "the responsible person" has the same meaning as in section 49.

(3) A recovery order—

(a) operates as a direction to any person who is in a position to do so to produce the child on request to any authorised person;

(b) authorises the removal of the child by any authorised person;

(c) requires any person who has information as to the child's whereabouts to disclose that information, if asked to do so, to a constable or an officer of the court;

(d) authorises a constable to enter any premises specified in the order and search for the child using reasonable force if necessary.

(4) The court may make a recovery order only on the application of—

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the designated officer.

(5) A recovery order shall name the child and—

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the designated officer.

(6) Premises may only be specified under subsection (3)(d) if it appears to the court that there are reasonable grounds for believing the child to be on them.

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(7) In this section—

"an authorised person" means—

(a) any person specified by the court;

(b) any constable;

(c) any person who is authorised—

(i) after the recovery order is made; and

(ii) by a person who has parental responsibility for the child by virtue of a care order or an emergency protection order,

to exercise any power under a recovery order; and

"the designated officer" means the officer designated for the purposes of section 46.

(8) Where a person is authorised as mentioned in subsection (7)(c)—

(a) the authorisation shall identify the recovery order; and

(b) any person claiming to be so authorised shall, if asked to do so, produce some duly authenticated document showing that he is so authorised.

(9) A person shall be guilty of an offence if he intentionally obstructs an authorised person exercising the power under subsection (3)(b) to remove a child.

(10) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) No person shall be excused from complying with any request made under subsection (3)(c) on the ground that complying with it might incriminate him or his spouse **[**[F312]or civil partner**]** of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for an offence other than perjury.

(12) Where a child is made the subject of a recovery order whilst being looked after by a local authority, any reasonable expenses incurred by an authorised person in giving effect to the order shall be recoverable from the authority.

(13) A recovery order shall have effect in Scotland as if it had been made by the Court of Session and as if that court had had jurisdiction to make it.

(14) In this section "the court", in relation to Northern Ireland, means a magistrates' court within the meaning of the [M17]Magistrates' Courts (Northern Ireland) Order 1981.

Annotations:

Extent Information

E3 S. 50 extends to England and Wales and Northern Ireland except s. 50(13) which also extends to Scotland. See s. 108(11)(12)

Amendments (Textual)

F312 Words in s. 50(11) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 261(1), **Sch. 27 para. 131**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Modifications etc. (not altering text)

C35 S. 50 applied (14.10.1991) by S.I. 1991/2032, **art. 6(1)**.
S. 50 applied (14.10.1991) by S.I. 1991/2032, **art. 7(1)**.

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Commencement Information

I49 S. 50 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M17 S.I. 1981/1675 (N.I. 26).

51 Refuges for children at risk.

(1) Where it is proposed to use a voluntary home or **[**F313private**]** children's home to provide a refuge for children who appear to be at risk of harm, the Secretary of State may issue a certificate under this section with respect to that home.

(2) Where a local authority or voluntary organisation arrange for a foster parent to provide such a refuge, the Secretary of State may issue a certificate under this section with respect to that foster parent.

(3) In subsection (2) "foster parent" means a person who is, or who from time to time is, a local authority foster parent or a foster parent with whom children are placed by a voluntary organisation.

(4) The Secretary of State may by regulations—

(a) make provision as to the manner in which certificates may be issued;

(b) impose requirements which must be complied with while any certificate is in force; and

(c) provide for the withdrawal of certificates in prescribed circumstances.

(5) Where a certificate is in force with respect to a home, none of the provisions mentioned in subsection (7) shall apply in relation to any person providing a refuge for any child in that home.

(6) Where a certificate is in force with respect to a foster parent, none of those provisions shall apply in relation to the provision by him of a refuge for any child in accordance with arrangements made by the local authority or voluntary organisation.

(7) The provisions are—

(a) section 49;

[F314(b) sections 82 (recovery of certain fugitive children) and 83 (harbouring) of the Children (Scotland) Act 1995, so far as they apply in relation to anything done in England and Wales;**]**

(c) section 32(3) of the M18Children and Young Persons Act 1969 (compelling, persuading, inciting or assisting any person to be absent from detention, etc.), so far as it applies in relation to anything done in England and Wales;

(d) section 2 of the M19Child Abduction Act 1984.

Annotations:

Amendments (Textual)

F313 Word in s. 51(1) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(7)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3))

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F314 S. 51(7)(b) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 48(3)**(with ss. 90, 103(1)); S.I. 1996/3201, **art. 3(7)**

Commencement Information

I50 S. 51 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M18 1969 c. 54.

M19 1984 c. 37.

52 Rules and regulations.

(1) Without prejudice to section 93 or any other power to make such rules, rules of court may be made with respect to the procedure to be followed in connection with proceedings under this Part.

(2) The rules may, in particular make provision—

(a) as to the form in which any application is to be made or direction is to be given;

(b) prescribing the persons who are to be notified of—

(i) the making, or extension, of an emergency protection order; or

(ii) the making of an application under section 45(4) or (8) or 46(7); and

(c) as to the content of any such notification and the manner in which, and person by whom, it is to be given.

(3) The Secretary of State may by regulations provide that, where—

(a) an emergency protection order has been made with respect to a child;

(b) the applicant for the order was not the local authority within whose area the child is ordinarily resident; and

(c) that local authority are of the opinion that it would be in the child's best interests for the applicant's responsibilities under the order to be transferred to them,

that authority shall (subject to their having complied with any requirements imposed by the regulations) be treated, for the purposes of this Act, as though they and not the original applicant had applied for, and been granted, the order.

(4) Regulations made under subsection (3) may, in particular, make provision as to—

(a) the considerations to which the local authority shall have regard in forming an opinion as mentioned in subsection (3)(c); and

(b) the time at which responsibility under any emergency protection order is to be treated as having been transferred to a local authority.

Annotations:

Commencement Information

I51 S. 52 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

PART VI

COMMUNITY HOMES

53 Provision of community homes by local authorities.

(1) Every local authority shall make such arrangements as they consider appropriate for securing that homes ("community homes") are available—

(a) for the care and accommodation of children looked after by them; and

(b) for purposes connected with the welfare of children (whether or not looked after by them),

and may do so jointly with one or more other local authorities.

(2) In making such arrangements, a local authority shall have regard to the need for ensuring the availability of accommodation—

(a) of different descriptions; and

(b) which is suitable for different purposes and the requirements of different descriptions of children.

(3) A community home may be a home—

(a) provided, **[**F315equipped, maintained and (subject to subsection (3A)) managed**]** by a local authority; or

(b) provided by a voluntary organisation but in respect of which a local authority and the organisation—

(i) propose that, in accordance with an instrument of management, the **[**F316equipment, maintenance and (subject to subsection (3B)) management**]** of the home shall be the responsibility of the local authority; or

(ii) so propose that the management, equipment and maintenance of the home shall be the responsibility of the voluntary organisation.

[F317(3A) A local authority may make arrangements for the management by another person of accommodation provided by the local authority for the purpose of restricting the liberty of children.

(3B) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the local authority may, with the consent of the body of managers constituted by the instrument of management for the home, make arrangements for the management by another person of accommodation provided for the purpose of restricting the liberty of children.**]**

(4) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the authority shall designate the home as a controlled community home.

(5) Where a voluntary organisation are to be responsible for the management of a community home provided by the organisation, the local authority shall designate the home as an assisted community home.

(6) Schedule 4 shall have effect for the purpose of supplementing the provisions of this Part.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Amendments (Textual)

F315 Words in s. 53(3)(a) substituted (8.3.1996) by 1994 c. 33, **s. 22(2)(a)(i)**; S.I. 1996/625, **art.2**

F316 Words in s. 53(3)(b)(i) substituted (8.3.1996) by 1994 c. 33, **s. 22(2)(a)(ii)**; S.I. 1996/625, **art. 2**

F317 S. 53(3A)(3B) inserted (8.3.1996) by 1994 c. 33, **s. 22(2)(b)**; S.I. 1996/625, **art.2**

Commencement Information

I52 S. 53 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F318 54 . . . . . .

Annotations:

Amendments (Textual)

F318 S. 54 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

55 Determination of disputes relating to controlled and assisted community homes.

(1) Where any dispute relating to a controlled community home arises between the local authority specified in the home's instrument of management and—

(a) the voluntary organisation by which the home is provided; or

(b) any other local authority who have placed, or desire or are required to place, in the home a child who is looked after by them,

the dispute may be referred by either party to the Secretary of State for his determination.

(2) Where any dispute relating to an assisted community home arises between the voluntary organisation by which the home is provided and any local authority who have placed, or desire to place, in the home a child who is looked after by them, the dispute may be referred by either party to the Secretary of State for his determination.

(3) Where a dispute is referred to the Secretary of State under this section he may, in order to give effect to his determination of the dispute, give such directions as he thinks fit to the local authority or voluntary organisation concerned.

(4) This section applies even though the matter in dispute may be one which, under or by virtue of Part II of Schedule 4, is reserved for the decision, or is the responsibility, of—

(a) the local authority specified in the home's instrument of management; or

(b) (as the case may be) the voluntary organisation by which the home is provided.

(5) Where any trust deed relating to a controlled or assisted community home contains provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide questions relating to religious instruction given in the home, no dispute which is capable of being dealt with in accordance with that provision shall be referred to the Secretary of State under this section.

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(6) In this Part "trust deed", in relation to a voluntary home, means any instrument (other than an instrument of management) regulating—

(a) the maintenance, management or conduct of the home; or

(b) the constitution of a body of managers or trustees of the home.

Annotations:

Commencement Information

I53 S. 55 wholly in force at 14.10.1991 see s. 108(2)(3) see S.I. 1991/828, art. 3(2)

56 Discontinuance by voluntary organisation of controlled or assisted community home.

(1) The voluntary organisation by which a controlled or assisted community home is provided shall not cease to provide the home except after giving to the Secretary of State and the local authority specified in the home's instrument of management not less than two years' notice in writing of their intention to do so.

(2) A notice under subsection (1) shall specify the date from which the voluntary organisation intend to cease to provide the home as a community home.

(3) Where such a notice is given and is not withdrawn before the date specified in it, the home's instrument of management shall cease to have effect on that date and the home shall then cease to be a controlled or assisted community home.

(4) Where a notice is given under subsection (1) and the home's managers give notice in writing to the Secretary of State that they are unable or unwilling to continue as its managers until the date specified in the subsection (1) notice, the Secretary of State may by order—

(a) revoke the home's instrument of management; and

(b) require the local authority who were specified in that instrument to conduct the home until—

(i) the date specified in the subsection (1) notice; or

(ii) such earlier date (if any) as may be specified for the purposes of this paragraph in the order,

as if it were a community home provided by the local authority.

(5) Where the Secretary of State imposes a requirement under subsection (4)(b)—

(a) nothing in the trust deed for the home shall affect the conduct of the home by the local authority;

(b) the Secretary of State may by order direct that for the purposes of any provision specified in the direction and made by or under any enactment relating to community homes (other than this section) the home shall, until the date or earlier date specified as mentioned in subsection (4)(b), be treated as a controlled or assisted community home;

(c) except in so far as the Secretary of State so directs, the home shall until that date be treated for the purposes of any such enactment as a community home provided by the local authority; and

(d) on the date or earlier date specified as mentioned in subsection (4)(b) the home shall cease to be a community home.

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Annotations:

Commencement Information

I54 S. 56 wholly in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, **art. 3(2)**

57 Closure by local authority of controlled or assisted community home.

(1) The local authority specified in the instrument of management for a controlled or assisted community home may give—

(a) the Secretary of State; and

(b) the voluntary organisation by which the home is provided,

not less than two years' notice in writing of their intention to withdraw their designation of the home as a controlled or assisted community home.

(2) A notice under subsection (1) shall specify the date ("the specified date") on which the designation is to be withdrawn.

(3) Where—

(a) a notice is given under subsection (1) in respect of a controlled or assisted community home;

(b) the home's managers give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers until the specified date; and

(c) the managers' notice is not withdrawn,

the Secretary of State may by order revoke the home's instrument of management from such date earlier than the specified date as may be specified in the order.

(4) Before making an order under subsection (3), the Secretary of State shall consult the local authority and the voluntary organisation.

(5) Where a notice has been given under subsection (1) and is not withdrawn, the home's instrument of management shall cease to have effect on—

(a) the specified date; or

(b) where an earlier date has been specified under subsection (3), that earlier date,

and the home shall then cease to be a community home.

Annotations:

Commencement Information

I55 S. 57 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

58 Financial provisions applicable on cessation of controlled or assisted community home or disposal etc. of premises.

(1) Where—

(a) the instrument of management for a controlled or assisted community home is revoked or otherwise ceases to have effect under section [F319]. . . , 56(3) or (4)(a) or 57(3) or (5); or

(b) any premises used for the purposes of such a home are (at any time after 13th January 1987) disposed of, or put to use otherwise than for those purposes,

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the proprietor shall become liable to pay compensation ("the appropriate compensation") in accordance with this section.

(2) Where the instrument of management in force at the relevant time relates—

(a) to a controlled community home; or

(b) to an assisted community home which, at any time before the instrument came into force, was a controlled community home,

the appropriate compensation is a sum equal to that part of the value of any premises which is attributable to expenditure incurred in relation to the premises, while the home was a controlled community home, by the authority who were then the responsible authority.

(3) Where the instrument of management in force at the relevant time relates—

(a) to an assisted community home; or

(b) to a controlled community home which, at any time before the instrument came into force, was an assisted community home,

the appropriate compensation is a sum equal to that part of the value of the premises which is attributable to the expenditure of money provided by way of grant under section 82, section 65 of the [M20]Children and Young Persons Act 1969 or section 82 of the [M21]Child Care Act 1980.

(4) Where the home is, at the relevant time, conducted in premises which formerly were used as an approved school or were an approved probation hostel or home, the appropriate compensation is a sum equal to that part of the value of the premises which is attributable to the expenditure—

(a) of sums paid towards the expenses of the managers of an approved school under section 104 of the [M22]Children and Young Persons Act 1933; [F320]. . .

(b) of sums paid under section 51(3)(c) of the [M23]Powers of Criminal Courts Act 1973 **[**[F321]or section 20(1)(c) of the Probation Service Act 1993**]** in relation to expenditure on approved probation hostels or homes. **[**[F322]or

(c) of sums paid under section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000 in relation to expenditure on approved premises (within the meaning of Part I of that Act).**]**

(5) The appropriate compensation shall be paid—

(a) in the case of compensation payable under subsection (2), to the authority who were the responsible authority at the relevant time; and

(b) in any other case, to the Secretary of State.

(6) In this section—

"disposal" includes the grant of a tenancy and any other conveyance, assignment, transfer, grant, variation or extinguishment of an interest in or right over land, whether made by instrument or otherwise;

"premises" means any premises or part of premises (including land) used for the purposes of the home and belonging to the proprietor;

"the proprietor" means—

(a) the voluntary organisation by which the home is, at the relevant time, provided; or

(b) if the premises are not, at the relevant time, vested in that organisation, the persons in whom they are vested;

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"the relevant time" means the time immediately before the liability to pay arises under subsection (1); and

"the responsible authority" means the local authority specified in the instrument of management in question.

(7) For the purposes of this section an event of a kind mentioned in subsection (1)(b) shall be taken to have occurred—

(a) in the case of a disposal, on the date on which the disposal was completed or, in the case of a disposal which is effected by a series of transactions, the date on which the last of those transactions was completed;

(b) in the case of premises which are put to different use, on the date on which they first begin to be put to their new use.

(8) The amount of any sum payable under this section shall be determined in accordance with such arrangements—

(a) as may be agreed between the voluntary organisation by which the home is, at the relevant time, provided and the responsible authority or (as the case may be) the Secretary of State; or

(b) in default of agreement, as may be determined by the Secretary of State.

(9) With the agreement of the responsible authority or (as the case may be) the Secretary of State, the liability to pay any sum under this section may be discharged, in whole or in part, by the transfer of any premises.

(10) This section has effect regardless of—

(a) anything in any trust deed for a controlled or assisted community home;

(b) the provisions of any enactment or instrument governing the disposition of the property of a voluntary organisation.

Annotations:

Amendments (Textual)

F319 Word in s. 58(1)(a) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3 and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**)

F320 Word in s. 58(4)(a) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 93(a), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

F321 Words in s. 58(4)(b) inserted (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch. 3 para. 9(2)**

F322 S. 58(4)(c) and the preceding word "or" inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 93(b)**; S.I. 2001/919, **art. 2(f)(ii)**

Commencement Information

I56 S. 58 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M20 1969 c. 54.

M21 1980 c. 5.

M22 1933 c. 12.

M23 1973 c. 62.

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PART VII

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

59 Provision of accommodation by voluntary organisations.

(1) Where a voluntary organisation provide accommodation for a child, they shall do so by—

(a) placing him (subject to subsection (2)) with —

(i) a family;

(ii) a relative of his; or

(iii) any other suitable person,

on such terms as to payment by the organisation and otherwise as the organisation may determine **[**F323(subject to section 49 of the Children Act 2004)**]**;

[F324(aa) maintaining him in an appropriate children's home;**]**

(f) making such other arrangements (subject to subsection (3)) as seem appropriate to them.

[F325(1A) Where under subsection (1)(aa) a local authority maintains a child in a home provided, equipped and maintained by **[**F326an appropriate national authority**]** under section 82(5), it shall do so on such terms as **[**F327that national authority**]** may from time to time determine.**]**

(2) The **[**F328appropriate national authority**]** may make regulations as to the placing of children with foster parents by voluntary organisations and the regulations may, in particular, make provision which (with any necessary modifications) is similar to the provision that may be made under section 23(2)(a).

(3) The **[**F329appropriate national authority**]** may make regulations as to the arrangements which may be made under subsection (1)(f) and the regulations may in particular make provision which (with any necessary modifications) is similar to the provision that may be made under section 23(2)(f).

(4) The **[**F330appropriate national authority**]** may make regulations requiring any voluntary organisation who are providing accommodation for a child—

(a) to review his case; and

(b) to consider any representations (including any complaint) made to them by any person falling within a prescribed class of person,

in accordance with the provisions of the regulations.

(5) Regulations under subsection (4) may in particular make provision which (with any necessary modifications) is similar to the provision that may be made under section 26.

(6) Regulations under subsections (2) to (4) may provide that any person who, without reasonable excuse, contravenes or fails to comply with a regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

[F331(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.**]**

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Annotations:

Amendments (Textual)

F323 Words in s. 59(1)(a) inserted (15.1.2005) by Children Act 2004 (c. 34), **ss. 49(4)**, 67(7)(d)

F324 S. 59(1)(aa) substituted for s. 59(1)(b)-(e) (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(8)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F325 S. 59(1A) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(8)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F326 Words in s. 59(1A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(2)(a)**

F327 Words in s. 59(1A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(2)(b)**

F328 Words in s. 59(2) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(3)**

F329 Words in s. 59(3) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(4)**

F330 Words in s. 59(4) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(5)**

F331 S. 59(7) added (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(6)**

Commencement Information

I57 S. 59 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

60 [F332Voluntary homes.]

F333(1) . . . . . .

(2) . . . . . .

[F334(3) In this Act "voluntary home" means a children's home which is carried on by a voluntary organisation but does not include a community home.]

(4) Schedule 5 shall have effect for the purpose of supplementing the provisions of this Part.

Annotations:

Amendments (Textual)

F332 S. 60 sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(9)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F333 S. 60(1)(2) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

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F334 S. 60(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(9)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I58 S. 60 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

61 Duties of voluntary organisations.

(1) Where a child is accommodated by or on behalf of a voluntary organisation, it shall be the duty of the organisation—

(a) to safeguard and promote his welfare;

(b) to make such use of the services and facilities available for children cared for by their own parents as appears to the organisation reasonable in his case; and

(c) to advise, assist and befriend him with a view to promoting his welfare when he ceases to be so accommodated.

(2) Before making any decision with respect to any such child the organisation shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

(a) the child;

(b) his parents;

(c) any person who is not a parent of his but who has parental responsibility for him; and

(d) any other person whose wishes and feelings the organisation consider to be relevant,

regarding the matter to be decided.

(3) In making any such decision the organisation shall give due consideration—

(a) having regard to the child's age and understanding, to such wishes and feelings of his as they have been able to ascertain;

(b) to such other wishes and feelings mentioned in subsection (2) as they have been able to ascertain; and

(c) to the child's religious persuasion, racial origin and cultural and linguistic background.

Annotations:

Modifications etc. (not altering text)

C36 S. 61: power to apply conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, ss. 53(3)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**

C37 S. 61(2)(a) applied (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), **art. 45(4)(a)**
S. 61(2)(a) applied (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **art. 46(4)(a)**

C38 S. 61(2)(b)-(d)(3)(b): power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E) by 2002 c. 38, ss. 53(3)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**

C39 S. 61(2)(b) excluded (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), **art. 45(4)(b)**

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S. 61(2)(b) excluded (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **art. 46(4)(b)**

C40 S. 61(2)(c) applied (with modifications) (30.12.2005) (E.) by The Adoption Agencies Regulations 2005 (S.I. 2005/389), **art. 45(4)(c)**
S. 61(2)(c) applied (with modifications) (30.12.2005) (W.) by The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **art. 46(4)(c)**

Commencement Information

I59 S. 61 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

62 Duties of local authorities.

(1) Every local authority shall satisfy themselves that any voluntary organisation providing accommodation—

(a) within the authority's area for any child; or

(b) outside that area for any child on behalf of the authority,

are satisfactorily safeguarding and promoting the welfare of the children so provided with accommodation.

(2) Every local authority shall arrange for children who are accommodated within their area by or on behalf of voluntary organisations to be visited, from time to time, in the interests of their welfare.

(3) The **[**[F335]appropriate national authority**]** may make regulations—

(a) requiring every child who is accommodated within a local authority's area, by or on behalf of a voluntary organisation, to be visited by an officer of the authority—

(i) in prescribed circumstances; and

(ii) on specified occasions or within specified periods; and

(b) imposing requirements which must be met by any local authority, or officer of a local authority, carrying out functions under this section.

(4) Subsection (2) does not apply in relation to community homes.

(5) Where a local authority are not satisfied that the welfare of any child who is accommodated by or on behalf of a voluntary organisation is being satisfactorily safeguarded or promoted they shall—

(a) unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—

(i) a parent of his;

(ii) any person who is not a parent of his but who has parental responsibility for him; or

(iii) a relative of his; and

(b) consider the extent to which (if at all) they should exercise any of their functions with respect to the child.

(6) Any person authorised by a local authority may, for the purpose of enabling the authority to discharge their duties under this section—

(a) enter, at any reasonable time, and inspect any premises in which children are being accommodated as mentioned in subsection (1) or (2);

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(b) inspect any children there;

(c) require any person to furnish him with such records of a kind required to be kept by regulations made under **[**F336section 22 of the Care Standards Act 2000**]** (in whatever form they are held), or allow him to inspect such records, as he may at any time direct.

(7) Any person exercising the power conferred by subsection (6) shall, if asked to do so, produce some duly authenticated document showing his authority to do so.

(8) Any person authorised to exercise the power to inspect records conferred by subsection (6)—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used; or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford him such assistance as he may reasonably require.

(9) Any person who intentionally obstructs another in the exercise of any power conferred by subsection (6) or (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[F337(10) This section does not apply in relation to any voluntary organisation which is an institution within the further education sector, as defined in section 91 of the M24Further and Higher Education Act 1992, or a school.**]**

Annotations:

Amendments (Textual)

F335 Words in s. 62(3) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 24**

F336 Words in s. 62(6)(c) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(10)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F337 S. 62(10) inserted (1.4.2002 for E. and 1.2.2003 for W.) by 2000 c. 14, ss. 105(5), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

Commencement Information

I60 S. 62 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M24 1992 c. 13.

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PART VIII

REGISTERED CHILDREN'S HOMES

63 [F338 Private children's homes etc.]

F339(1) . . . . . .

(2) . . . . . .

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(9) . . . . . .

(10) . . . . . .

(11) Schedule 6 shall have effect with respect to **[**F340private**]** children's homes.

(12) Schedule 7 shall have effect for the purpose of setting out the circumstances in which a person may foster more than three children without being treated **[**F341, for the purposes of this Act and the Care Standards Act 2000,**]** as carrying on a children's home.

Annotations:

Amendments (Textual)

F338 S. 63 sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(11)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F339 S. 63(1)-(10) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F340 Word in s. 63(11) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(11)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F341 Words in s. 63(12) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(11)(c)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I61 S. 63 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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64 Welfare of children in children's homes.

(1) Where a child is accommodated in a **[**F342private**]** children's home, it shall be the duty of the person carrying on the home to—

(a) safeguard and promote the child's welfare;

(b) make such use of the services and facilities available for children cared for by their own parents as appears to that person reasonable in the case of the child; and

(c) advise, assist and befriend him with a view to promoting his welfare when he ceases to be so accommodated.

(2) Before making any decision with respect to any such child the person carrying on the home shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

(a) the child;

(b) his parents;

(c) any other person who is not a parent of his but who has parental responsibility for him; and

(d) any person whose wishes and feelings the person carrying on the home considers to be relevant,

regarding the matter to be decided.

(3) In making any such decision the person concerned shall give due consideration—

(a) having regard to the child's age and understanding, to such wishes and feelings of his as he has been able to ascertain;

(b) to such other wishes and feelings mentioned in subsection (2) as he has been able to ascertain; and

(c) to the child's religious persuasion, racial origin and cultural and linguistic background.

(4) Section 62, except subsection (4), shall apply in relation to any person who is carrying on a **[**F342private**]** children's home as it applies in relation to any voluntary organisation.

Annotations:

Amendments (Textual)

F342 Word in s. 64(1)(4) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(12)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I62 S. 64 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

65 2 Persons disqualified from carrying on, or being employed in children's homes.

(1) A person who is disqualified (under section 68) from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in a children's home unless he has—

(a) disclosed to **[**F343the appropriate authority**]** the fact that he is so disqualified; and

(b) obtained **[**F343its**]** written consent.

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(2) No person shall employ a person who is so disqualified in a children's home unless he has—

(a) disclosed to **[**F343the appropriate authority**]** the fact that that person is so disqualified; and

(b) obtained **[**F343its**]** written consent.

(3) Where **[**F344the appropriate authority refuses to give its consent under this section, it**]** shall inform the applicant by a written notice which states—

(a) the reason for the refusal;

[F345(b) the applicant's right to appeal under section 65A against the refusal to the **[**F346First-tier Tribunal**]]**

(c) the time within which he may do so.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(5) Where a person contravenes subsection (2) he shall not be guilty of an offence if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified under section 68.

[F347(6) In this section and section 65A "appropriate authority" means—

(a) in relation to England, the **[**F348Her Majesty's Chief Inspector of Education, Children's Services and Skills**]** ; and

(b) in relation to Wales, the National Assembly for Wales.**]**

Annotations:

Amendments (Textual)

F343 Words in s. 65(1)(a)(b)(2)(a)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(a)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F344 Words in s. 65(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(b)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F345 S. 65(3)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(c)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F346 Words in s. 65(3)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 72**

F347 S. 65(6) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(d)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F348 Words in s. 65(6)(a) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 12**; S.I. 2007/935, **art. 5(gg)**

Modifications etc. (not altering text)

C41 S. 65: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

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Commencement Information

I63 S. 65 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F349 65A Appeal against refusal of authority to give consent under section 65.

(1) An appeal against a decision of an appropriate authority under section 65 shall lie to the **[**F350First-tier Tribunal**]** .

(2) On an appeal the Tribunal may confirm the authority's decision or direct it to give the consent in question.**]**

Annotations:

Amendments (Textual)

F349 S. 65A inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(14)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provision in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F350 Words in s. 65A(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 73**

PART IX

PRIVATE ARRANGEMENTS FOR FOSTERING CHILDREN

66 Privately fostered children.

(1) In this Part—

(a) "a privately fostered child" means a child who is under the age of sixteen and who is cared for, and provided with accommodation **[**F351in their own home**]** by, someone other than—

(i) a parent of his;

(ii) a person who is not a parent of his but who has parental responsibility for him; or

(iii) a relative of his; and

(b) "to foster a child privately" means to look after the child in circumstances in which he is a privately fostered child as defined by this section.

(2) A child is not privately fostered child if the person caring for and accommodating him —

(a) has done so for a period a period of less than 28 days; and

(b) does not intend to do so for any longer period.

(3) Subsection (1) is subject to —

(a) the provisions of section 63; and

(b) the exceptions made by paragraph 1 to 5 of Schedule 8.

(4) In the case of a child who is disabled, subsection (1)(a) shall have effect as if for "sixteen"there were substituted "eighteen".

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[F352(4A) The Secretary of State may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing him with accommodation in the person's own home.**]**

(5) Schedule 8 shall have effect for the purposes of supplementing the provision made by this Part.

Annotations:

Amendments (Textual)

F351 Words in s. 66(1)(a) inserted (1.1.2001 for E. and 28.2.2001 for W.) by 2000 c. 14, s. 116, **Sch. 4 para. 14(15)(a)**; S.I. 2000/2795, **art. 2(2)(b)**, S.I. 2001/139, art. 2(2)(b)

F352 S. 66(4A) inserted (1.1.2001 for E. and 28.2.2001 for W.) by 2000 c. 14, s. 116, **Sch. 4 para. 14(15)(b)**; S.I. 2000/2795, **art. 2(2)(b)**, S.I. 2001/139, art. 2(2)(b)

Commencement Information

I64 S. 66 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

67 Welfare of privately fostered children.

(1) It shall be the duty of every local authority to satisfy themselves that the welfare of children who are **[**F353or are proposed to be**]** privately fostered within their area is being **[**F354or will be**]** satisfactorily safeguarded and promoted and to secure that such advice is given to those **[**F355concerned with**]** them as appears to the authority to be needed.

(2) The Secretary of State may make regulations—

(a) requiring every child who is privately fostered within a local authority's area to be visited by an officer of the authority—

(i) in prescribed circumstances; and

(ii) on specified occasions or within specified periods; and

(b) imposing requirements which are to be met by any local authority, or officer of a local authority, in carrying out functions under this section.

[F356(2A) Regulations under subsection (2)(b) may impose requirements as to the action to be taken by a local authority for the purposes of discharging their duty under subsection (1) where they have received notification of a proposal that a child be privately fostered.**]**

(3) Where any person who is authorised by a local authority to visit **[**F357for the purpose**]** has reasonable cause to believe that—

(a) any privately fostered child is being accommodated in premises within the authority's area; or

(b) it is proposed to accommodate any such child in any such premises,

he may at any reasonable time inspect those premises and any children there.

(4) Any person exercising the power under subsection (3) shall, if so required, produce some duly authenticated document showing his authority to do so.

(5) Where a local authority are not satisfied that the welfare of any child who is **[**F358or is proposed to be**]** privately fostered within their area is being **[**F359or will be**]** satisfactorily safeguarded or promoted they shall—

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(a) unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—

(i) a parent of his;

(ii) any person who is not a parent of his but who has parental responsibility for him; or

(iii) a relative of his; and

(b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

[F360(6) The Secretary of State may make regulations requiring a local authority to monitor the way in which the authority discharge their functions under this Part (and the regulations may in particular require the authority to appoint an officer for that purpose).**]**

Annotations:

Amendments (Textual)

F353 Words in s. 67(1) inserted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(2)(a)**; S.I. 2005/394, **art. 2(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F354 Words in s. 67(1) inserted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(2)(b)**; S.I. 2005/394, **art. 2(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F355 Words in s. 67(1) substituted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(2)(c)**; S.I. 2005/394, **art. 2(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F356 S. 67(2A) inserted (1.4.2005 for specified purposes and otherwise 1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(3)**; S.I. 2005/394, **art. 2(2)(d)(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F357 Words in s. 67(3) substituted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(4)**; S.I. 2005/394, **art. 2(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F358 Words in s. 67(5) inserted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(5)(a)**; S.I. 2005/394, **art. 2(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F359 Words in s. 67(5) inserted (1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(5)(b)**; S.I. 2005/394, **art. 2(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

F360 S. 67(6) inserted (1.4.2005 for specified purposes and otherwise 1.7.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(6)**; S.I. 2005/394, **art. 2(2)(d)(3)(a)**; S.I. 2006/885, **art. 2(2)(b)**

Modifications etc. (not altering text)

C42 S. 67(2)-(6): power to amend conferred (15.1.2005) by Children Act 2004 (c. 31), **ss. 45-47**

Commencement Information

I65 S. 67 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

68 Persons disqualified from being private foster parents.

(1) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if he is disqualified from doing so by regulations made by the Secretary of State for the purposes of this section.

(2) The regulations may, in particular, provide for a person to be so disqualified where—

(a) an order of a kind specified in the regulations has been made at any time with respect to him;

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(b) an order of a kind so specified has been made at any time with respect to any child who has been in his care;

(c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;

(d) he has been convicted of any offence of a kind so specified, or[F361]... discharged absolutely or conditionally for any such offence;

(e) a prohibition has been imposed on him at any time under section 69 or under any other specified enactment;

(f) his rights and powers with respect to a child have at any time been vested in a specified authority under a specified enactment.

[[F362](2A) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of subsection (2)(d).**]**

(3) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if—

(a) he lives in the same household as a person who is himself prevented from fostering a child by subsection (1); or

(b) he lives in a household at which any such person is employed.

[[F363](3A) A person shall not foster a child privately if—

(a) he is barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006); or

(b) he lives in the same household as a person who is barred from such activity.**]**

(4) Where an authority refuse to give their consent under this section, they shall inform the applicant by a written notice which states—

(a) the reason for the refusal;

(b) the applicant's right under paragraph 8 of Schedule 8 to appeal against the refusal; and

(c) the time within which he may do so.

(5) In this section—

"the appropriate authority" means the local authority within whose area it is proposed to foster the child in question; and

"enactment" means any enactment having effect, at any time, in any part of the United Kingdom.

Annotations:

Amendments (Textual)

F361 Words in s. 68(2)(d) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 332, Sch. 32 Pt. 1 para. 60(2), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 42(24), 44(4)(j) (subject to transitional provisions and savings in Sch. 2)

F362 S. 68(2A) inserted (4.4.2005) by Criminal Justice Act 2003 (c.44), s. 304, **Sch. 32 Pt. 1 para. 60(3)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(24) (subject to transitional provisions and savings in Sch. 2)

F363 S. 68(3A) inserted (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 9 para. 12** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch.

Modifications etc. (not altering text)

C43 S. 68: power to amend conferred (15.1.2005) by Children Act 2004 (c. 31), **ss. 45-47**

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Commencement Information

I66 S. 68 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

69 Power to prohibit private fostering.

(1) This section applies where a person—

(a) proposes to foster a child privately; or

(b) is fostering a child privately.

(2) Where the local authority for the area within which the child is proposed to be, or is being, fostered are of the opinion that—

(a) he is not a suitable person to foster a child;

(b) the premises in which the child will be, or is being, accommodated are not suitable; or

(c) it would be prejudicial to the welfare of the child for him to be, or continue to be accommodated by that person in those premises,

the authority may impose a prohibition on him under subsection (3).

(3) A prohibition imposed on any person under this subsection may prohibit him from fostering privately—

(a) any child in any premises within the area of the local authority; or

(b) any child in premises specified in the prohibition.

(c) a child identified in the prohibition, in premises specified in the prohibition.

(4) A local authority who have imposed a prohibition on any person under subsection (3) may, if they think fit, cancel the prohibition—

(a) of their own motion; or

(b) on an application made by that person,

if they are satisfied that the prohibition is no longer justified.

(5) Where a local authority impose a requirement on any person under paragraph 6 of Schedule 8, they may also impose a prohibition on him under subsection (3).

(6) Any prohibition imposed by virtue of subsection (5) shall not have effect unless—

(a) the time specified for compliance with the requirement has expired; and

(b) the requirement has not been compiled with.

(7) A prohibition imposed under this section shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—

(a) the reason for imposing the prohibition;

(b) his right under paragraph 8 of Schedule 8 to appeal against the prohibition; and

(c) the time within which he may do so.

Annotations:

Modifications etc. (not altering text)

C44 S. 69: power to amend conferred (15.1.2005) by Children Act 2004 (c. 31), **ss. 45-47**

Commencement Information

I67 S. 69 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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70 Offences.

(1) A person shall be guilty of an offence if—

(a) being required, under any provision made by or under this Part, to give any notice or information—

(i) he fails without reasonable excuse to give the notice within the time specified in that provision; or

(ii) he fails without reasonable excuse to give the information within a reasonable time; or

(iii) he makes, or causes or procures another person to make, any statement in the notice or information which he knows to be false or misleading in a material particular;

(b) he refuses to allow a privately fostered child to be visited by a duly authorised officer of a local authority;

(c) he intentionally obstructs another in the exercise of the power conferred by section 67(3);

(d) he contravenes section 68;

(e) he fails without reasonable excuse to comply with any requirement imposed by a local authority under this Part;

(f) he accommodates a privately fostered child in any premises in contravention of a prohibition imposed by a local authority under this Part;

(g) he knowingly causes to be published, or publishes, an advertisement which he knows contravenes paragraph 10 of Schedule 8.

(2) Where a person contravenes section 68(3), he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable ground for believing, that any person to whom section 68(1) applied was living or employed in the premises in question.

(3) A person guilty of an offence under subsection (1)(a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person guilty of an offence under subsection (1)(b), (c) or (g) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person guilty of an offence under subsection (1)(d) or (f) shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

(6) A person guilty of an offence under subsection (1)(e) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If any person who is required, under any provision of this Part, to give a notice fails to give the notice within the time specified in that provision, proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the local authority.

(8) Subsection (7) is not affected by anything in section 127(1) of the [M25]Magistrates' Courts Act 1980 (time limit for proceedings).

Annotations:

Modifications etc. (not altering text)

C45 S. 70: power to amend conferred (15.1.2005) by Children Act 2004 (c. 31), **ss. 45-47**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I68 S. 70 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M25 1980 c. 43.

F364

PART X

CHILD MINDING AND DAY CARE FOR YOUNG CHILDREN

Annotations:

Amendments (Textual)

F364 Pt. X (ss. 71-79) repealed (S.)(1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)**

Modifications etc. (not altering text)

C46 Pt. X and Sch. 9: By 2000 c. 14, **ss. 79(5)**, 122 it is provided (2.7.2001 (E.) and 1.4.2002 (W.)) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, **art. 2(1)(c)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(b)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F365**71** . . . . . .

Annotations:

Amendments (Textual)

F365 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C47 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F366**72** . . . . . .

Annotations:

Amendments (Textual)

F366 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

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Modifications etc. (not altering text)

C48 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F367 73 . . . . . .

Annotations:

Amendments (Textual)

F367 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C49 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F368 74 . . . . . .

Annotations:

Amendments (Textual)

F368 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)**

Modifications etc. (not altering text)

C50 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F369 75 . . . . . .

Annotations:

Amendments (Textual)

F369 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C51 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with

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transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F370 76 . . . . . .

Annotations:

Amendments (Textual)

F370 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C52 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F371 77 . . . . . .

Annotations:

Amendments (Textual)

F371 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C53 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F372 78 . . . . . .

Annotations:

Amendments (Textual)

F372 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C54 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

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F373 79 . . . . . .

Annotations:

Amendments (Textual)

F373 Pt. X (ss. 71-79) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C55 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

F374

PART XA

CHILD MINDING AND DAY CARE FOR CHILDREN IN F375...WALES

Annotations:

Amendments (Textual)

F374 Pt. XA (ss. 79A-79X) inserted by 2000 c. 14, **ss. 79(1)**, 122 (the insertion coming into force at 16.3.2001 for specified purposes for E., at 1.7.2001 for specified purposes for W., at 2.7.2001 for specified purposes for E., at 1.4.2002 for specified purposes for E., at 1.4.2002 otherwise for W., at 2.9.2002 for specified purposes for E., and otherwise *prosp.*) by: S.I. 2001/1210, **art. 2**; S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in **Sch**); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/839, **art. 2**; S.I. 2002/2215, **art. 2**; S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**))

F375 Pt. XA heading: words repealed (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, Sch. 2 para. 5, **Sch. 3**; S.I. 2008/ 2261, {art. 2} (with art. 3, Sch. 1 and art. 4 Sch. 2)

Modifications etc. (not altering text)

C56 Pt. XA applied (1.9.2003) (E.) by The Day Care (Application to Schools) (England) Regulations 2003 (S.I. 2003/1992), **reg. 3** (subject to reg. 4)

Introductory

F376 79A Child minders and day care providers.

(1) This section and section 79B apply for the purposes of this Part.

(2) "Act as a child minder" means (subject to the following subsections) look after one or more children under the age of eight on domestic premises for reward; and "child minding" shall be interpreted accordingly.

(3) A person who—

(a) is the parent, or a relative, of a child;

(b) has parental responsibility for a child;

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(c) is a local authority foster parent in relation to a child;

(d) is a foster parent with whom a child has been placed by a voluntary organisation; or

(e) fosters a child privately,

does not act as a child minder when looking after that child.

(4) Where a person—

(a) looks after a child for the parents ("P1"), or

(b) in addition to that work, looks after another child for different parents ("P2"),

and the work consists (in a case within paragraph (a)) of looking after the child wholly or mainly in P1's home or (in a case within paragraph (b)) of looking after the children wholly or mainly in P1's home or P2's home or both, the work is not to be treated as child minding.

(5) In subsection (4), "parent", in relation to a child, includes—

(a) a person who is not a parent of the child but who has parental responsibility for the child;

(b) a person who is a relative of the child.

(6) "Day care" means care provided at any time for children under the age of eight on premises other than domestic premises.

(7) This Part does not apply in relation to a person who acts as a child minder, or provides day care on any premises, unless the period, or the total of the periods, in any day which he spends looking after children or (as the case may be) during which the children are looked after on the premises exceeds two hours.

(8) In determining whether a person is required to register under this Part for child minding, any day on which he does not act as a child minder at any time between 2 am and 6 pm is to be disregarded.

Annotations:

Amendments (Textual)

F376 S. 79A inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F377 79B Other definitions, etc.

(1) F378 . . . . . .

[F379(2) In this Act "the Assembly" means the National Assembly for Wales.**]**

(3) A person is qualified for registration for child minding if—

(a) he, and every other person looking after children on any premises on which he is or is likely to be child minding, is suitable to look after children under the age of eight;

(b) every person living or employed on the premises in question is suitable to be in regular contact with children under the age of eight;

(c) the premises in question are suitable to be used for looking after children under the age of eight, having regard to their condition and the condition and

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appropriateness of any equipment on the premises and to any other factor connected with the situation, construction or size of the premises; and

(d) he is complying with regulations under section 79C and with any conditions imposed **[**F380under this Part**]** .

(4) A person is qualified for registration for providing day care on particular premises if—

[F381(a) he has made adequate arrangements to ensure that—

(i) every person (other than himself and the responsible individual) looking after children on the premises is suitable to look after children under the age of eight; and

(ii) every person (other than himself and the responsible individual) living or working on the premises is suitable to be in regular contact with children under the age of eight;

(b) the responsible individual—

(i) is suitable to look after children under the age of eight, or

(ii) if he is not looking after such children, is suitable to be in regular contact with them;**]**

(c) the premises are suitable to be used for looking after children under the age of eight, having regard to their condition and the condition and appropriateness of any equipment on the premises and to any other factor connected with the situation, construction or size of the premises; and

(d) he is complying with regulations under section 79C and with any conditions imposed **[**F380under this Part**]** .

(5) For the purposes of subsection **[**F382(4)(a)**]** a person is not treated as working on the premises in question if—

(a) none of his work is done in the part of the premises in which children are looked after; or

(b) he does not work on the premises at times when children are looked after there.

[F383(5ZA) For the purposes of subsection (4), "the responsible individual" means—

(a) in a case of one individual working on the premises in the provision of day care, that person;

(b) in a case of two or more individuals so working, the individual so working who is in charge.**]**

[F384(5A) Where, for the purposes of determining a person's qualification for registration under this Part—

(a) **[**F385the Assembly**]** requests any person ("A") to consent to the disclosure to **[**F385the Assembly**]** by another person ("B") of any information relating to A which is held by B and is of a prescribed description, and

(b) A does not give his consent (or withdraws it after having given it),

[F385the Assembly**]** may, if regulations so provide and it thinks it appropriate to do so, regard A as not suitable to look after children under the age of eight, or not suitable to be in regular contact with such children.**]**

(6) "Domestic premises" means any premises which are wholly or mainly used as a private dwelling and "premises" includes any area and any vehicle.

[F386(7) "Regulations" means regulations made by the Assembly.**]**

(8) F387 . . . . . .

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(9) Schedule 9A (which supplements the provisions of this Part) shall have effect.

Annotations:

Amendments (Textual)

F377 S. 79B inserted ((W.) 1.7.2001 for certain purposes and 1.4.2002 otherwise and (E.) 2.7.2001 for certain purposes and 1.4.2002 otherwise) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)(3)** (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/839, **art. 2**: S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F378 S. 79B(1) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 7(a)** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F379 S. 79B(2) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 7(b)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F380 Words in s. 79B(3)(d)(4)(d) substituted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 2(1)**; S.I. 2005/394, **art. 2(1)(k)**; S.I. 2006/885, **art. 2(2)(c)**

F381 S. 79B(4)(a)(b) substituted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 6(a)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F382 Words in s. 79B(5) substituted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 6(b)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F383 S. 79B(5ZA) inserted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 6(c)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F384 S. 79B(5A) inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F385 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F386 S. 79B(7) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 7(c)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F387 S. 79B(8) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 74**

Regulations

F388 79C Regulations etc. governing child minders and day care providers.

(1) F389 . . . . . .

(2) The Assembly may make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in Wales.

(3) The regulations under this section may deal with the following matters (among others) —

(a) the welfare and development of the children concerned;

(b) suitability to look after, or be in regular contact with, children under the age of eight;

(c) qualifications and training;

(d) the maximum number of children who may be looked after and the number of persons required to assist in looking after them;

(e) the maintenance, safety and suitability of premises and equipment;

(f) the keeping of records;

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(g) the provision of information.

(4) F390 . . . . . .

(5) F391 . . . . . .

(6) If the regulations require any person (other than **[**F392the Assembly**]**) to have regard to or meet factors, standards and other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account—

(a) by **[**F392the Assembly**]** in the exercise of its functions under this Part, or

(b) in any proceedings under this Part.

(7) Regulations may provide—

(a) that a registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement of the regulations shall be guilty of an offence; and

(b) that a person guilty of the offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Annotations:

Amendments (Textual)

F388 S. 79C inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(i)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)**(with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F389 S. 79C(1) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 8** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F390 S. 79C(4) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 8** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F391 S. 79C(5) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 8** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F392 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

Registration

F393 79D Requirement to register.

[F394(1) No person shall act as a child minder in Wales unless he is registered under this Part for child minding by the Assembly.**]**

(2) Where it appears to **[**F395the Assembly**]** that a person has contravened subsection (1), **[**F395the Assembly**]** may serve a notice ("an enforcement notice") on him.

(3) An enforcement notice shall have effect for a period of one year beginning with the date on which it is served.

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(4) If a person in respect of whom an enforcement notice has effect contravenes subsection (1) without reasonable excuse [F396]..., he shall be guilty of an offence.

(5) No person shall provide day care on any premises unless he is registered under this Part for providing day care on those premises **[**[F397]in Wales**]**by **[**[F395]the Assembly**]** .

(6) If any person contravenes subsection (5) without reasonable excuse, he shall be guilty of an offence.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Annotations:

Amendments (Textual)

F393 S. 79D inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs.1-3)

F394 S. 79D(1) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 9(a)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F395 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F396 Words in s. 79D(4) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 9(b)** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F397 Words in s. 79D(5) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 9(c)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

[F398]79E Applications for registration.

(1) A person who wishes to be registered under this Part shall make an application to **[**[F399]the Assembly**]** .

(2) The application shall—

(a) give prescribed information about prescribed matters;

(b) give any other information which **[**[F399]the Assembly**]** reasonably requires the applicant to give.

[[F400](c) be accompanied by the prescribed fee.**]**

(3) Where a person provides, or proposes to provide, day care on different premises, he shall make a separate application in respect of each of them.

(4) Where **[**[F399]the Assembly**]** has sent the applicant notice under section 79L(1) of its intention to refuse an application under this section, the application may not be withdrawn without the consent of **[**[F399]the Assembly**]** .

(5) A person who, in an application under this section, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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Annotations:

Amendments (Textual)

F398 S. 79E inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(ii)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F399 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F400 S. 79E(2)(c) inserted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 3(1)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F401 79F Grant or refusal of registration.

(1) If, on an application **[**F402 under section 79E**]** by a person for registration for child minding—

(a) **[**F403 the Assembly**]** is of the opinion that the applicant is, and will continue to be, qualified for registration for child minding (so far as the conditions of section 79B(3) are applicable); F404 ...

(b) . . . . . .

[F403 the Assembly**]** shall grant the application; otherwise, it shall refuse it.

(2) If, on an application **[**F402 under section 79E**]** by any person for registration for providing day care on any premises—

(a) **[**F403 the Assembly**]** is of the opinion that the applicant is, and will continue to be, qualified for registration for providing day care on those premises (so far as the conditions of section 79B(4) are applicable); ...

(b) . . . . . .

[F403 the Assembly**]** shall grant the application; otherwise, it shall refuse it.

(3) An application may, as well as being granted subject to any conditions **[**F403 the Assembly**]** thinks necessary or expedient for the purpose of giving effect to regulations under section 79C, be granted subject to any other conditions **[**F403 the Assembly**]** thinks fit to impose.

(4) **[**F403 The Assembly**]** may as it thinks fit vary or remove any condition to which the registration is subject or impose a new condition.

(5) Any register kept by **[**F403 the Assembly**]** of persons who act as child minders or provide day care shall be open to inspection by any person at all reasonable times.

(6) A registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any condition imposed on his registration shall be guilty of an offence.

(7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Annotations:

Amendments (Textual)

F401 S. 79F inserted (16.3.2001 (E.) for certain purposes and 1.7.2001 (W.) for certain purposes and otherwise (W.) 1.4.2002, and 2.7.2001 (E.) in so far as not already in force) by 2000 c. 14, **s. 79(1)**;

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S.I. 2001/1210, **art. 2(a)(iii)(iv)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F402 Words in s. 79F(1)(2) inserted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 3(2)(a)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F403 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F404 S. 79F(1)(b)(2)(b) and preceding word repealed (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 3(2)(b), **Sch. 5 Pt. 2**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F405 79G Cancellation of registration.

(1) **[**F406the Assembly**]** may cancel the registration of any person if—

(a) in the case of a person registered for child minding, **[**F406the Assembly**]** is of the opinion that the person has ceased or will cease to be qualified for registration for child minding;

(b) in the case of a person registered for providing day care on any premises, **[**F406the Assembly**]** is of the opinion that the person has ceased or will cease to be qualified for registration for providing day care on those premises,

or if **[**F407a fee**]** which is due from the person has not been paid.

(2) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a registered person F408... , his registration shall not be cancelled on the ground of any defect or insufficiency in the services, equipment or premises if—

(a) the time set for complying with the requirements has not expired; and

(b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.

(3) Any cancellation under this section must be in writing.

Annotations:

Amendments (Textual)

F405 S. 79G inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F406 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F407 Words in s. 79G(1) substituted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 4(1)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F408 Words in s. 79G(2) repealed (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 2(2), **Sch. 5 Pt. 2**; S.I. 2005/394, **art. 2(1)(k)(m)**; S.I. 2006/885, **art. 2(2)(c)**

F409 79H Suspension of registration.

(1) Regulations may provide for the registration of any person for acting as a child minder or providing day care to be suspended for a prescribed period by **[**F410the Assembly**]** in prescribed circumstances.

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(2) Any regulations made under this section shall include provision conferring on the person concerned a right of appeal to the **[**[F411]First-tier**]** Tribunal against suspension.

[[F412](3) [F413]. . . . . .

(4) A person registered under this Part for child minding by the Assembly shall not act as a child minder in Wales at a time when that registration is so suspended.

(5) A person registered under this Part for providing day care on any premises shall not provide day care on those premises at any time when that registration is so suspended.

(6) If any person contravenes subsection (3), (4) or (5) without reasonable excuse, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

Annotations:

Amendments (Textual)

F409 S. 79H inserted ((E.) 16.3.2001 for certain purposes and otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes and otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(v)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F410 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F411 Words in s. 79H(2) inserted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 75**

F412 S. 79H(3)-(6) inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 2** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F413 Words in s. 79H(3) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 10** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

[F414]79J Resignation of registration.

(1) A person who is registered for acting as a child minder or providing day care may by notice in writing to **[**[F415]the Assembly**]** resign his registration.

(2) But a person may not give a notice under subsection (1)—

(a) if **[**[F415]the Assembly**]** has sent him a notice under section 79L(1) of its intention to cancel the registration, unless **[**[F415]the Assembly**]** has decided not to take that step; or

(b) if **[**[F415]the Assembly**]** has sent him a notice under section 79L(5) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

Annotations:

Amendments (Textual)

F414 S. 79J inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

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F415 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F416 79K Protection of children in an emergency.

(1) If, in the case of any person registered **[**F417 under this Part**]** for acting as a child minder or providing day care—

(a) **[**F418 the Assembly**]** applies to a justice of the peace for an order—

(i) cancelling the registration;

(ii) varying or removing any condition to which the registration is subject; or

(iii) imposing a new condition; and

(b) it appears to the justice that a child who is being, or may be, looked after by that person, or (as the case may be) in accordance with the provision for day care made by that person, is suffering, or is likely to suffer, significant harm,

the justice may make the order.

(2) The cancellation, variation, removal or imposition shall have effect from the time when the order is made.

(3) An application under subsection (1) may be made without notice.

(4) An order under subsection (1) shall be made in writing.

(5) Where an order is made under this section, **[**F418 the Assembly**]** shall serve on the registered person, as soon as is reasonably practicable after the making of the order—

(a) a copy of the order;

(b) a copy of any written statement of **[**F418 the Assembly**]**'s reasons for making the application for the order which supported that application; and

(c) notice of any right of appeal conferred by section 79M.

(6) Where an order has been so made, **[**F418 the Assembly**]** shall, as soon as is reasonably practicable after the making of the order, notify the local authority in whose area the person concerned acts or acted as a child minder, or provides or provided day care, of the making of the order.

Annotations:

Amendments (Textual)

F416 S. 79K inserted (2.7.2001 for certain purposes for E. and otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)(3)** (with transitional provisions and savings in Sch.); S.I. 2002/839, **art. 2(b)**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F417 Words in s. 79K(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 11**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F418 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F419 79L Notice of intention to take steps.

(1) Not less than 14 days before—

(a) refusing an application for registration;

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(b) cancelling a registration;

(c) removing or varying any condition to which a registration is subject or imposing a new condition; or

(d) refusing to grant an application for the removal or variation of any condition to which a registration is subject,

[F420the Assembly**]** shall send to the applicant, or (as the case may be) registered person, notice in writing of its intention to take the step in question.

(2) Every such notice shall—

(a) give **[**F420the Assembly**]**'s reasons for proposing to take the step; and

(b) inform the person concerned of his rights under this section.

(3) Where the recipient of such a notice informs **[**F420the Assembly**]** in writing of his desire to object to the step being taken, **[**F420the Assembly**]** shall afford him an opportunity to do so.

(4) Any objection made under subsection (3) may be made orally or in writing, by the recipient of the notice or a representative.

(5) If **[**F420the Assembly**]** , after giving the person concerned an opportunity to object to the step being taken, decides nevertheless to take it, it shall send him written notice of its decision.

(6) A step of a kind mentioned in subsection (1)(b) or (c) shall not take effect until the expiry of the time within which an appeal may be brought under section 79M or, where such an appeal is brought, before its determination.

(7) Subsection (6) does not prevent a step from taking effect before the expiry of the time within which an appeal may be brought under section 79M if the person concerned notifies **[**F420the Assembly**]** in writing that he does not intend to appeal.

Annotations:

Amendments (Textual)

F419 S. 79L inserted (2.7.2001 for certain purposes for E. and otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)(3)(c)** (with transitional provisions and savings in Sch.); S.I. 2002/839, **art. 2(c)**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F420 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

Modifications etc. (not altering text)

C57 S. 79L applied (with modifications) (25.3.2003) (E.) by The Tax Credits (Approval of Home Child Care Providers) Scheme 2003 (S.I. 2003/463), {arts. 11, 12}

F421 79M Appeals.

(1) An appeal against—

(a) the taking of any step mentioned in section 79L(1); F422. . .

(b) an order under section 79K, **[**F423or

(c) a determination made by **[**F424the Assembly**]** under this Part (other than one falling within paragraph (a) or (b)) which is of a prescribed description,**]**

shall lie to the **[**F425First-tier**]** Tribunal.

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(2) On an appeal, the **[**F425First-tier**]** Tribunal may—

(a) confirm the taking of the step or the making of the order **[**F426or determination**]** or direct that it shall not have, or shall cease to have, effect; and

(b) impose, vary or cancel any condition.

Annotations:

Amendments (Textual)

F421 S. 79M inserted (1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2002/839, **art. 2(d)**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F422 Word in s. 79M(1) repealed (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, ss. 215(2), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 4**, Pt. 1

F423 S. 79M(1)(c) and preceding word inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 3(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F424 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F425 Words in s. 79M(1)(2) inserted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 76**

F426 Words in s.79M(2)(a) inserted (1.10.2002 for E. 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 3(3)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**: S.I. 2002/3185, art. 4, **Sch. Pt. 1**

Inspection: England

F427 79N General functions of the Chief Inspector.

F428 . . . . . .

Annotations:

Amendments (Textual)

F427 S. 79N inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(vi)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F428 Words in s. 79N omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 12** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

79P Early years child care inspectorate.

F429 . . . . . .

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Annotations:

Amendments (Textual)

F429 S. 79P omitted (3.10.2005) by virtue of Education Act 2005 (c. 18), s. 53, **Sch. 7 para. 2** (with s. 119) and repealed (prosp.) by that same amending Act, s. 123, Sch. 19 Pt. 1; the omission being brought into force by S.I. 2005/2034, **art. 7**

F430 79Q Inspection of provision of child minding and day care in England.

F431 . . . . . .

Annotations:

Amendments (Textual)

F430 S. 79Q inserted ((E.) 16.3.2001 and 2.7.2001 for certain purposes otherwise 2.9.2002 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **ss. 79(1)**, 122; S.I. 2001/1210, **art. 2(a)(vii)(viii) S.I**. 2001/2041, art. 2(1)(a)(2) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F431 Words in s. 79Q omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 12** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F432 79R Reports of inspections.

F433 . . . . . .

Annotations:

Amendments (Textual)

F432 S. 79R inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(ix)(x)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F433 Words in s. 79R omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 12** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

Inspection: Wales

F434 79S General functions of the Assembly.

(1) The Assembly may secure the provision of training for persons who provide or assist in providing child minding or day care, or intend to do so.

(2) In relation to child minding and day care provided in Wales, the Assembly shall have any additional function specified in regulations made by the Assembly; F435...

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Annotations:

Amendments (Textual)

F434 S. 79S inserted ((W.) 1.7.2001 for certain purposes otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F435 Words in s. 79S(2) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 13** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F436 79T Inspection: Wales.

(1) The Assembly may at any time require any registered person to provide it with any information connected with the person's activities as a child minder or provision of day care which the Assembly considers it necessary to have for the purposes of its functions under this Part.

(2) The Assembly may by regulations make provision—

(a) for the inspection of F437... child minding provided in Wales by registered persons and of day care provided by registered persons on premises in Wales;

(b) for the publication of reports of the inspections in such manner as the Assembly considers appropriate.

(3) The regulations may provide for the inspections to be organised by—

(a) the Assembly; or

(b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Assembly.

(4) The regulations may provide for subsections (2) to (4) of **[**F438section 29 of the Education Act 2005**]** to apply with modifications in relation to the publication of reports under the regulations.

Annotations:

Amendments (Textual)

F436 S. 79T inserted ((W.) 1.7.2001 for certain purposes and otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F437 Words in s. 79T(2)(a) repealed (1.9.2006) by Education Act 2005 (c. 18), ss. 53, 123, **Sch. 7 para. 5(2)**, Sch. 19 Pt. 1 (with s. 119); S.I. 2006/1338, **art. 4(1)**, Sch. 2 (subject to art. 2(1))

F438 Words in s. 79T(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 53, **Sch. 7 para. 5(3)** (with s. 119); S.I. 2006/1338, **art. 4(1)**, Sch. 2 (subject to art. 2(1))

Supplementary

F439 79U Rights of entry etc.

(1) **[**F440Any person authorised for the purposes of this subsection by **[**F441the Assembly**]]** may at any reasonable time enter any premises in F442... Wales on which child minding or day care is at any time provided.

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(2) Where **[**F443a person who is authorised for the purposes of this subsection by **[**F441the Assembly**]]** has reasonable cause to believe that a child is being looked after on any premises in contravention of this Part, he may enter those premises at any reasonable time.

[F444(2A) Authorisation under subsection (1) or (2)—

(a) may be given for a particular occasion or period;

(b) may be given subject to conditions.**]**

(3) **[**F445A person entering premises under this section may (subject to any conditions imposed under subsection (2A)(b))—**]**

(a) inspect the premises;

(b) inspect, and take copies of—

(i) any records kept by the person providing the child minding or day care; and

(ii) any other documents containing information relating to its provision;

(c) seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;

(d) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under this section;

(e) take measurements and photographs or make recordings;

(f) inspect any children being looked after there, and the arrangements made for their welfare;

(g) interview in private the person providing the child minding or day care; and

(h) interview in private any person looking after children, or living or working, there who consents to be interviewed.

(4) **[**F446Section 58 of the Education Act 2005**]** (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of subsection (3) as it applies for the purposes of Part I of that Act.

F447(5) . . . . . .

(6) A person exercising any power conferred by this section shall, if so required, produce some duly authenticated document showing his authority to do so.

(7) It shall be an offence wilfully to obstruct a person exercising any such power.

(8) Any person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(9) In this section—

F448. . .

"documents" and "records" each include information recorded in any form.

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Annotations:

Amendments (Textual)

F439 S. 79U inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F440 Words in s. 79U(1) substituted (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 5(2)** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F441 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F442 Words in s. 79U(1) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 14** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F443 Words in s. 79U(2) substituted (2.9.2002 for E., 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 5(3)** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F444 S. 79U(2A) inserted (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 5(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F445 Words in s. 79U(3) substituted (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 5(5)** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F446 Words in s. 79U(4) substituted (3.10.2005 for E. and 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 53, **Sch. 7 para. 6** (with s. 119); S.I. 2005/2034, **art. 6**; S.I. 2006/1338, **art. 3**, Sch. 1

F447 S. 79U(5) repealed (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, ss. 152, 215(2), Sch. 13 para. 5(6), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F448 S. 79U(9): definition of "authorised inspector" repealed (2.9.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, Sch. 13 para. 5(7), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, art. 4, **Sch. Pt. 1**

F449 79V Function of local authorities.

Each local authority **[**F450in Wales**]** shall, in accordance with regulations, secure the provision—

(a) of information and advice about child minding and day care; and

(b) of training for persons who provide or assist in providing child minding or day care.

Annotations:

Amendments (Textual)

F449 S. 79V inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(xi) S.I**. 2001/2041, art. 2(1)(a) (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F450 Words in s. 79V inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 15**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

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Checks on suitability of persons working with children over the age of seven

[F451]79W Requirement for certificate of suitability.

(1) This section applies to any person not required to register under this Part who looks after, or provides care for, children **[**[F452]in Wales**]** and meets the following conditions.

References in this section to children are to those under the age of 15 or (in the case of disabled children) 17.

(2) The first condition is that the period, or the total of the periods, in any week which he spends looking after children or (as the case may be) during which the children are looked after exceeds five hours.

(3) The second condition is that he would be required to register under this Part (or, as the case may be, this Part if it were subject to prescribed modifications) if the children were under the age of eight.

(4) Regulations may require a person to whom this section applies to hold a certificate issued by **[**[F453]the Assembly**]** as to his suitability, and the suitability of each prescribed person, to look after children.

(5) The regulations may make provision about—

(a) applications for certificates;

(b) the matters to be taken into account by **[**[F453]the Assembly**]** in determining whether to issue certificates;

(c) the information to be contained in certificates;

(d) the period of their validity.

(6) The regulations may provide that a person to whom this section applies shall be guilty of an offence—

(a) if he does not hold a certificate as required by the regulations; or

(b) if, being a person who holds such a certificate, he fails to produce it when reasonably required to do so by a prescribed person.

(7) The regulations may provide that a person who, for the purpose of obtaining such a certificate, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence.

(8) The regulations may provide that a person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Annotations:

Amendments (Textual)

F451 S. 79W inserted ((E.) 16.3.2001 for certain purposes otherwise 2.7.2001 and (W.) 1.7.2001 for certain purposes otherwise 1.4.2002) by 2000 c. 14, **s. 79(1)**; S.I. 2001/1210, **art. 2(a)(xii)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F452 Words in s. 79W(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 16**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

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F453 Words in Pt. XA substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

Time limit for proceedings

F454 79X Time limit for proceedings.

Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.

Annotations:

Amendments (Textual)

F454 S. 79X inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, **s. 79(1)**; S.I. 2001/2041, **art. 2(1)(a)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

PART XI

SECRETARY OF STATE'S SUPERVISORY FUNCTIONS AND RESPONSIBILITIES

[F455 80 Inspection of children's homes etc. by persons authorised by Secretary of State.

(1) The Secretary of State may cause to be inspected from time to time any—

(a) [F456 private] children's home;

(b) premises in which a child who is being looked after by a local authority is living;

(c) premises in which a child who is being accommodated by or on behalf of a local education authority or voluntary organisation is living;

(d) premises in which a child who is being accommodated by or on behalf of a [F457 [F458 Local Health Board] , Special Health Authority] [F459, Primary Care Trust] [F460, National Health Service trust or NHS foundation trust] is living;

(e) F461 . . . . . .

(f) . . . . . .

(g) premises in which a privately fostered child, or child who is treated as a foster child by virtue of paragraph 9 of Schedule 8, is living or in which it is proposed that he will live;

(h) premises on which any person is acting as a child minder;

(i) premises with respect to which a person is registered under section 71(1)(b) [F462 or with respect to which a person is registered for providing day care under Part XA];

[F463 (j) care home or independent hospital used to accommodate children;]

(k) premises which are provided by a local authority and in which any service is provided by that authority under Part III;

(l) [F464 school or college] providing accommodation for any child;

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(2) An inspection under this section shall be conducted by a person authorised to do so by the Secretary of State.

(3) An officer of a local authority shall not be so authorised except with the consent of that authority.

(4) The Secretary of State may require any person of a kind mentioned in subsection (5) to furnish him with such information, or allow him to inspect such records (in whatever form they are held), relating to—

(a) any premises to which subsection (1) or, in relation to Scotland, subsection (1)(h) or (i) applies;

(b) any child who is living in any such premises;

(c) the discharge by the Secretary of State of any of his functions under this Act; **[**F465or**]**

(d) the discharge by any local authority of any of their functions under this Act,

as the Secretary of State may at any time direct.

(5) The persons are any—

(a) local authority;

(b) voluntary organisation;

(c) person carrying on a **[**F456private**]** children's home;

(d) proprietor of an independent school **[**F466or governing body of any other school**]**;

[F467(da) governing body of an institution designated under section 28 of the M26Further and Higher Education Act 1992;

(db) further education corporation;**]**

(e) person fostering any privately fostered child or providing accommodation for a child on behalf of a local authority, local education authority, **[**F468**[**F458Local Health Board**]** , Special Health Authority**][**F459Primary Care Trust,**][**F469National Health Service trust**][**F470, NHS foundation trust**]** or voluntary organisation;

(f) local education authority providing accommodation for any child;

(g) person employed in a teaching or administrative capacity at any educational establishment (whether or not maintained by a local education authority) at which a child is accommodated on behalf of a local authority or local education authority;

(h) person who is the occupier of any premises in which any person acts as a child minder (within the meaning of Part X) or provides day care for young children (within the meaning of that Part);

[F471(hh) person who is the occupier of any premises—

(i) in which any person required to be registered for child minding under Part XA acts as a child minder (within the meaning of that Part); or

(ii) with respect to which a person is required to be registered under that Part for providing day care;**]**

(i) person carrying on any home of a kind mentioned in subsection (1)(j).

[F472(j) person carrying on a fostering agency.**]**

(6) Any person inspecting any home or other premises under this section may—

(a) inspect the children there; and

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(b) make such examination into the state and management of the home or premises and the treatment of the children there as he thinks fit.

(7) Any person authorised by the Secretary of State to exercise the power to inspect records conferred by subsection (4)—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used; or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford him such reasonable assistance as he may require.

(8) A person authorised to inspect any premises under this section shall have a right to enter the premises for that purpose, and for any purpose specified in subsection (4), at any reasonable time.

(9) Any person exercising that power shall, if so required, produce some duly authenticated document showing his authority to do so.

(10) Any person who intentionally obstructs another in the exercise of that power shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) The Secretary of State may by order provide for subsections (1), (4) and (6) not to apply in relation to such homes, or other premises, as may be specified in the order.

(12) Without prejudice to section 104, any such order may make different provision with respect to each of those subsections.

[[F473](13) In this section—

"college" means an institution within the further education sector as defined in section 91 of the [M27]Further and Higher Education Act 1992;

"fostering agency" has the same meaning as in the Care Standards Act 2000;

"further education corporation" has the same meaning as in the [M28]Further and Higher Education Act 1992.**]]**

Annotations:

Amendments (Textual)

F455 S. 80 repealed (S.) (1.4.2002) by 2001 asp 8, ss. 80(1), 81(2), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

F456 Word in s. 80(1)(a)(5)(c) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(16)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F457 Words in s. 80(1)(d), substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(8)(a)(with Sch. 2 para. 6)

F458 Words in s. 80(1)(d)(5)(e) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2**, 3 {Sch. para. 20(2)(g)}

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F459 Words in s. 80(1)(d)(5)(e) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(8)**

F460 Words in s. 80(1)(d) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 80(a)**; S.I. 2004/759, **art. 2**

F461 S. 80(1)(e)(f) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 65, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 3(l)**; S.I. 2005/3112, **art. 2(g)**

F462 Words in s. 80(1)(i) added (2.7.2001 for E. and 1.4.2002 for W.) by 2000 c. 14, s. 116, **Sch. 4 para. 14(16)(b)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(3)(d) and transitional provisions in Schs. 1-3)

F463 S. 80(1)(j) substituted (1.4.2002) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(16)(c)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F464 Words in s. 80(1)(l) substituted (1.4.2002 (E.) otherwise prosp.) by 2000 c. 14, **ss. 109(2)**, 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I.(as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**)

F465 Word in s. 80(4)(c) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F466 Words in s. 80(5)(d) inserted (1.4.2002 (E.) otherwise prosp.) by 2000 c. 14, **ss. 109(3)(a)**, 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I.(as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**))

F467 S. 80(5)(da)(db) inserted (1.4.2002 (E.) otherwise prosp.) by 2000 c. 14, **ss. 109(3)(b)**, 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I.(as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**))

F468 Words in s. 80(5)(e) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(8)(b)(with Sch. 2, para. 6)

F469 Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(4)(b)**

F470 Words in s. 80(5)(e) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 80(b)**; S.I. 2004/759, **art. 2**

F471 S. 80(5)(hh) inserted (2.7.2001 (E.), 1.4.2002 (W.)) by 2000 c. 14, s. 116, **Sch. 4 para. 14(16)(d)**; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F472 S. 80(5)(j) inserted (1.4.2002 (E.) otherwise prosp.) by 2000 c. 14, **ss. 109(3)(c)**, 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I.(as amended by as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**))

F473 S. 80(13) inserted (1.4.2002 (E.) otherwise prosp.) by 2000 c. 14, **ss. 109(4)**, 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I.(as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**))

Commencement Information

I69 S. 80 wholly in force at 14.10.1991 see s. 108(2)(3) see S.I. 1991/828, art. 3(2)

Marginal Citations

M26 1992 c. 13.

M27 1992 c. 13.

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M28 1992 c. 13.

81 Inquiries.

F474

. . . . . .

Annotations:

Amendments (Textual)

F474 S. 81 repealed (7.6.2005) by Inquiries Act 2005 (c. 12), ss. 48(1), 49(2), Sch. 2 para. 12, **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, **art. 2**

82 Financial support by Secretary of State.

(1) The Secretary of State may (with the consent of the Treasury) defray or contribute towards—

(a) any fees or expenses incurred by any person undergoing approved child care training;

(b) any fees charged, or expenses incurred, by any person providing approved child care training or preparing material for use in connection with such training; or

(c) the cost of maintaining any person undergoing such training.

(2) The Secretary of State may make grants to local authorities in respect of expenditure incurred by them in providing secure accommodation in community homes other than assisted community homes.

(3) Where—

(a) a grant has been made under subsection (2) with respect to any secure accommodation; but

(b) the grant is not used for the purpose for which it was made or the accommodation is not used as, or ceases to be used as, secure accommodation,

the Secretary of State may (with the consent of the Treasury) require the authority concerned to repay the grant, in whole or in part.

(4) The Secretary of State may make grants to voluntary organisations towards—

(a) expenditure incurred by them in connection with the establishment, maintenance or improvement of voluntary homes which, at the time when the expenditure was incurred—

(i) were assisted community homes; or

(ii) were designated as such; or

(b) expenses incurred in respect of the borrowing of money to defray any such expenditure.

(5) The Secretary of State may arrange for the provision, equipment and maintenance of homes for the accommodation of children who are in need of particular facilities and services which—

(a) are or will be provided in those homes; and

(b) in the opinion of the Secretary of State, are unlikely to be readily available in community homes.

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(6) In this Part—

"child care training" means training undergone by any person with a view to, or in the course of—

(a) his employment for the purposes of any of the functions mentioned in section 83(9) or in connection with the adoption of children or with the accommodation of children in a **[**F475care home or independent hospital**]**; or

(b) his employment by a voluntary organisation for similar purposes;

"approved child care training" means child care training which is approved by the Secretary of State; and

"secure accommodation" means accommodation provided for the purpose of restricting the liberty of children.

(7) Any grant made under this section shall be of such amount, and shall be subject to such conditions, as the Secretary of State may (with the consent of the Treasury) determine.

Annotations:

Amendments (Textual)

F475 Words in s. 82(6) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(18)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I70 S. 82 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

83 Research and returns of information.

(1) The Secretary of State may conduct, or assist other persons in conducting, research into any matter connected with—

(a) his functions, or the functions of local authorities, under the enactments mentioned in subsection (9);

[F476(aa) the functions of Local Safeguarding Children Boards;**]**

(b) the adoption of children; or

(c) the accommodation of children in a **[**F477care home or independent hospital**]**.

(2) Any local authority may conduct, or assist other persons in conducting, research into any matter connected with—

(a) their functions under the enactments mentioned in subsection (9);

[F478(aa) the functions of Local Safeguarding Children Boards;**]**

(b) the adoption of children; or

(c) the accommodation of children in a **[**F477care home or independent hospital**]**.

(3) Every local authority shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to—

(a) the performance by the local authority of all or any of their functions—

(i) under the enactments mentioned in subsection (9); or

(ii) in connection with the accommodation of children in a **[**F477care home or independent hospital**]**; and

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(b) the children in relation to whom the authority have exercised those functions.**[**F479; and

(c) the performance by the Local Safeguarding Children Board established by them under the Children Act 2004 of all or any of its functions.**]**

(4) Every voluntary organisation shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to children accommodated by them or on their behalf.

[F480(4A) Particulars required to be transmitted under subsection (3) or (4) may include particulars relating to and identifying individual children.**]**

(5) The Secretary of State may direct the **[**F481**[**F482designated officer for**]]** each magistrates' court to which the direction is expressed to relate to transmit—

(a) to such person as may be specified in the direction; and

(b) at such times and in such form as he may direct,

such particulars as he may require with respect to proceedings of the court which relate to children.

(6) The Secretary of State shall in each year lay before Parliament a consolidated and classified abstract of the information transmitted to him under subsections (3) to (5).

(7) The Secretary of State may institute research designed to provide information on which requests for information under this section may be based.

(8) The Secretary of State shall keep under review the adequacy of the provision of child care training and for that purpose shall receive and consider any information from or representations made by—

(a) the Central Council for Education and Training in Social Work;

(b) such representatives of local authorities as appear to him to be appropriate; or

(c) such other persons or organisations as appear to him to be appropriate,

concerning the provision of such training.

(9) The enactments are—

(a) this Act;

(b) the Children and Young Persons Acts 1933 to 1969;

(c) section 116 of the M29Mental Health Act 1983 (so far as it relates to children looked after by local authorities);

[F483(ca) Part 1 of the Adoption and Children Act 2002;

(cb) the Children Act 2004;

(cc) the Children and Young Persons Act 2008.**]**

(d) F484 . . . . . .

Annotations:

Amendments (Textual)

F476 S. 83(1)(aa) inserted (12.2.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 33(2)**, 44; S.I. 2009/268, **art. 3(1)(e)**

F477 Words in s. 83(1)(c)(2)(c)(3)(a)(ii) substituted (1.4.2002) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(19)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(b)** (with art. 3(4)-(10) (subject to transitional provisions in Schs. 1-3)

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F478 S. 83(2)(aa) inserted (12.2.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 33(3)**, 44; S.I. 2009/268, **art. 3(1)(e)**

F479 S. 83(3)(c) and word inserted (12.2.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 33(4)**, 44; S.I. 2009/268, **art. 3(1)(e)**

F480 S. 83(4A) inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 54**; S.I. 2005/394, **art. 2(1)(h)**; S.I. 2006/885, **art. 2(2)(e)**

F481 Words in s. 83(5) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 160** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

F482 Words in s. 83(5) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 336**; S.I. 2005/910, **art. 3(y)**

F483 S. 83(9)(ca)-(cc) inserted (12.2.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 33(5)**, 44; S.I. 2009/268, **art. 3(1)(e)**

F484 S. 83(9)(d) repealed (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 16, **Sch. 3**

Commencement Information

I71 S. 83 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M29 1983 c. 20.

84 Local authority failure to comply with statutory duty: default power of Secretary of State.

(1) If the Secretary of State is satisfied that any local authority has failed, without reasonable excuse, to comply with any of the duties imposed on them by or under this Act he may make an order declaring that authority to be in default with respect to that duty.

(2) An order under subsection (1) shall give the Secretary of State's reasons for making it.

(3) An order under subsection (1) may contain such directions for the purpose of ensuring that the duty is complied with, within such period as may be specified in the order, as appear to the Secretary of State to be necessary.

(4) Any such direction shall, on the application of the Secretary of State, be enforceable by mandamus.

Annotations:

Commencement Information

I72 S. 84 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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PART XII

MISCELLANEOUS AND GENERAL

Notification of children accommodated in certain establishments

85 Children accommodated by health authorities and local education authorities.

(1) Where a child is provided with accommodation by any **[**F485**[**F486Local Health Board**]** , Special Health Authority,**][**F487Primary Care Trust,**][**F488National Health Service trust**][**F489, NHS foundation trust**]** or local education authority ("the accommodating authority")—

(a) for a consecutive period of at least three months; or

(b) with the intention, on the part of that authority, of accommodating him for such a period,

the accommodating authority shall notify the responsible authority.

(2) Where subsection (1) applies with respect to a child, the accommodating authority shall also notify the responsible authority when they cease to accommodate the child.

(3) In this section "the responsible authority" means—

(a) the local authority appearing to the accommodating authority to be the authority within whose area the child was ordinarily resident immediately before being accommodated; or

(b) where it appears to the accommodating authority that a child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.

(4) Where a local authority have been notified under this section, they shall—

(a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the accommodating authority; and

(b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

Annotations:

Amendments (Textual)

F485 Words in s. 85(1) substituted(1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(9)(with Sch. 2 para. 6)

F486 Words in s. 85(1) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(2)(h)**

F487 Words in s. 85(1) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(9)** (with art. 2(5))

F488 Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(5)**

F489 Words in s. 85(1) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 81**; S.I. 2004/759, **art. 2**

Commencement Information

I73 S. 85 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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86 [F490 Children accommodated in care homes or independent hospitals.]

(1) Where a child is provided with accommodation in any [F491care home or independent hospital]—

(a) for a consecutive period of at least three months; or

(b) with the intention, on the part of the person taking the decision to accommodate him, of accommodating him for such period,

the person carrying on the home shall notify the local authority within whose area the home is carried on.

(2) Where subsection (1) applies with respect to a child, the person carrying on the home shall also notify that authority when he ceases to accommodate the child in the home.

(3) Where a local authority have been notified under this section, they shall—

(a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated in the home; and

(b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

(4) If the person carrying on any home fails, without reasonable excuse, to comply with this section he shall be guilty of an offence.

(5) A person authorised by a local authority may enter any [F491care home or independent hospital] within the authority's area for the purpose of establishing whether the requirements of this section have been complied with.

(6) Any person who intentionally obstructs another in the exercise of the power of entry shall be guilty of an offence.

(7) Any person exercising the power of entry shall, if so required, produce some duly authenticated document showing his authority to do so.

(8) Any person committing an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Annotations:

Amendments (Textual)

F490 S. 86: sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(20)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F491 Words in s. 86(1)(5) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(20)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I74 S. 86 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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[F492 86A Visitors for children notified to local authority under section 85 or 86

(1) This section applies if the appropriate officer of a local authority—

(a) has been notified with respect to a child under section 85(1) or 86(1); and

(b) has not been notified with respect to that child under section 85(2) or, as the case may be, 86(2).

(2) The local authority must, in accordance with regulations made under this section, make arrangements for the child to be visited by a representative of the authority ("a representative").

(3) It is the function of a representative to provide advice and assistance to the local authority on the performance of their duties under section 85(4) or, as the case may be, 86(3).

(4) Regulations under this section may make provision about—

(a) the frequency of visits under visiting arrangements;

(b) circumstances in which visiting arrangements must require a child to be visited; and

(c) additional functions of a representative.

(5) Regulations under this section are to be made by the Secretary of State and the Welsh Ministers acting jointly.

(6) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.

(7) In this section "visiting arrangements" means arrangements made under subsection (2).**]**

Annotations:

Amendments (Textual)

F492 S. 86A inserted (1.1.2010 for certain purposes and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 18**, 44; S.I. 2009/3354, **art. 2**

87 [F493 Welfare of children in boarding schools and colleges.]

[F494(1) Where a school or college provides accommodation for any child, it shall be the duty of the relevant person to safeguard and promote the child's welfare.

(2) Subsection (1) does not apply in relation to a school or college which is a children's home or care home.

(3) Where accommodation is provided for a child by any school or college the appropriate authority shall take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the school or college.

(4) Where **[**F495the Chief Inspector for England is**]** of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or **[**F496college in England, he shall**]**—

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(a) in the case of a school other than an independent school or a special school, notify the local education authority for the area in which the school is situated;

(b) in the case of a special school which is maintained by a local education authority, notify that authority;

(c) in any other case, notify the Secretary of State.

(4A) Where the National Assembly for Wales are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or college **[**F497in Wales**]** , they shall—

(a) in the case of a school other than an independent school or a special school, notify the local education authority for the area in which the school is situated;

(b) in the case of a special school which is maintained by a local education authority, notify that authority.

(5) Where accommodation is, or is to be, provided for a child by any school or college, a person authorised by the appropriate authority may, for the purpose of enabling that authority to discharge its duty under this section, enter at any time premises which are, or are to be, premises of the school or college.**]**

(6) Any person **[**F498exercising**]** the power conferred by subsection (5) may carry out such inspection of premises, children and records as is prescribed by regulations made by the Secretary of State for the purposes of this section.

(7) Any person exercising that power shall, if asked to do so, produce some duly authenticated document showing his authority to do so.

(8) Any person authorised by the regulations to inspect records—

(a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and

(b) may require—

(i) the person by whom or on whose behalf the computer is or has been so used; or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford him such assistance as he may reasonably require.

(9) Any person who intentionally obstructs another in the exercise of any power conferred by this section or the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[F499(9A) Where **[**F500the Chief Inspector for England**]** or the National Assembly for Wales exercises the power conferred by subsection (5) in relation to a child, **[**F501that authority must**]** publish a report on whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the school or college.

(9B) Where **[**F502the Chief Inspector for England**]** or the National Assembly for Wales publishes a report under this section, it must—

(a) send a copy of the report to the school or college concerned; and

(b) make copies of the report available for inspection at its offices by any person at any reasonable time.

(9C) Any person who requests a copy of a report published under this section is entitled to have one on payment of such reasonable fee (if any) as **[**F503the Chief Inspector

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for England**]** or the National Assembly for Wales (as the case may be) considers appropriate.**]**

[F504(10) In this section and sections 87A to 87D—

"the 1992 Act" means the M30Further and Higher Education Act 1992;

"appropriate authority" means—

(a) in relation to England, **[**F505the Chief Inspector for England**]** ;

(b) in relation to Wales, the National Assembly for Wales;

[F506"the Chief Inspector for England" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;**]**

"college" means an institution within the further education sector as defined in section 91 of the 1992 Act;

F507. . . . . .

"further education corporation" has the same meaning as in the 1992 Act;

"local education authority" and "proprietor" have the same meanings as in the M31Education Act 1996

(11) In this section and sections 87A and 87D "relevant person" means—

(a) in relation to an independent school, the proprietor of the school;

(b) in relation to any other school, or an institution designated under section 28 of the 1992 Act, the governing body of the school or institution;

(c) in relation to an institution conducted by a further education corporation, the corporation.

(12) Where a person other than the proprietor of an independent school is responsible for conducting the school, references in this section to the relevant person include references to the person so responsible.**]**

Annotations:

Amendments (Textual)

F493 S. 87: sidenote substituted (1.4.2002 for E., otherwise *prosp.*) by 2000 c. 14, s. 116, **Sch. 4 para. 14(21)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**)

F494 S. 87(1)-(5) substituted (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and 1.2.2003 (W.)) by 2000 c. 14, ss. 105(2), 122; S.I. 2001/3852, art. 3(3)(a)(iii)(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

F495 Words in s, 87(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(2)(a)**; S.I. 2007/935, **art. 5(gg)**

F496 Words in s. 87(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(2)(b)**; S.I. 2007/935, **art. 5(gg)**

F497 Words in s. 87(4A) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(3)**; S.I. 2007/935, **art. 5(gg)**

F498 Words in s. 87(6) substituted (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and 1.2.2003 (W.)) by 2000 c. 14, ss. 105(3), 122; S.I. 2001/3852, art. 3(3)(a)(iii)(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

F499 S. 87(9A)-(9C) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 111**; S.I. 2004/759, **art. 7**; S.I. 2004/873, **art. 2(e)**

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F500 Words in s. 87(9A) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**

F501 Words in s. 87(9A) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**

F502 Words in s. 87(9B) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**

F503 Words in s. 87(9C) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**

F504 S. 87(10)(11)(12) substituted for s. 87(10) (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and 1.2.2003 (W.)) by 2000 c. 14, ss. 105(4), 122; S.I. 2001/3852, art. 3(3)(a)(iii)(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

F505 Words in s. 87(10) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(5)(a)**; S.I. 2007/935, **art. 5(gg)**

F506 S. 87(10): definition of "the Chief Inspector for England" inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(5)(b)**; S.I. 2007/935, **art. 5(gg)**

F507 S. 87(10): definition of "the Commission" repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, Sch. 14 para. 16(5)(c), **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5(gg)(ii)**

Modifications etc. (not altering text)

C58 S. 87: transfer of functions (1.4.2004 for E.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 110**; S.I. 2004/759, **art. 4(2)(a)**
S. 87: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

Commencement Information

I75 S. 87 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M30 1992 c. 13.

M31 1996 c. 56.

[F508 87A Suspension of duty under section 87(3).

(1) The Secretary of State may appoint a person to be an inspector for the purposes of this section if—

(a) that person already acts as an inspector for other purposes in relation to schools or colleges to which section 87(1) applies, and

(b) the Secretary of State is satisfied that the person is an appropriate person to determine whether the welfare of children provided with accommodation by such schools or colleges is adequately safeguarded and promoted while they are accommodated by them.

(2) Where—

(a) the relevant person enters into an agreement in writing with a person appointed under subsection (1),

(b) the agreement provides for the person so appointed to have in relation to the school or college the function of determining whether section 87(1) is being complied with, and

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(c) the appropriate authority receive from the person mentioned in paragraph (b) ("the inspector") notice in writing that the agreement has come into effect,

the appropriate authority's duty under section 87(3) in relation to the school or college shall be suspended.

(3) Where the appropriate authority's duty under section 87(3) in relation to any school or college is suspended under this section, it shall cease to be so suspended if the appropriate authority receive—

(a) a notice under subsection (4) relating to the inspector, or

(b) a notice under subsection (5) relating to the relevant agreement.

(4) The Secretary of State shall terminate a person's appointment under subsection (1) if—

(a) that person so requests, or

(b) the Secretary of State ceases, in relation to that person, to be satisfied that he is such a person as is mentioned in paragraph (b) of that subsection,

and shall give notice of the termination of that person's appointment to the appropriate authority.

(5) Where—

(a) the appropriate authority's duty under section 87(3) in relation to any school or college is suspended under this section, and

(b) the relevant agreement ceases to have effect,

the inspector shall give to the appropriate authority notice in writing of the fact that it has ceased to have effect.

(6) In this section references to the relevant agreement, in relation to the suspension of the appropriate authority's duty under section 87(3) as regards any school or college, are to the agreement by virtue of which the appropriate authority's duty under that provision as regards that school or college is suspended.**]**

Annotations:

Amendments (Textual)

F508 S. 87A substituted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(1), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

Modifications etc. (not altering text)

C59 S. 87A: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

[F509 87B Duties of inspectors under section 87A.

(1) The Secretary of State may impose on a person appointed under section 87A(1) ("an authorised inspector") such requirements relating to, or in connection with, the carrying out under substitution agreements of the function mentioned in section 87A(2)(b) as the Secretary of State thinks fit.

(2) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that there has

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been a failure to comply with section 87(1) in the case of a child provided with accommodation by the school **[**F510or college**]** to which the agreement relates, the inspector shall give notice of that fact

[F511(a) in the case of a school other than an independent school or a special school, to the local education authority for the area in which the school is situated;

(b) in the case of a special school which is maintained by a local education authority, to that authority;

(c) in any other case, to the Secretary of State**]**.

(3) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that a child provided with accommodation by the school **[**F512or college**]** to which the agreement relates is suffering, or is likely to suffer, significant harm, the inspector shall—

(a) give notice of that fact to the local authority in whose area the school **[**F512or college**]** is situated, and

(b) where the inspector is required to make inspection reports to the Secretary of State, supply that local authority with a copy of the latest inspection report to have been made by the inspector to the Secretary of State in relation to the school **[**F512or college**]**.

[F513(4) In this section "substitution agreement" means an agreement by virtue of which the duty of the appropriate authority under section 87(3) in relation to a school or college is suspended.**]]**

Annotations:

Amendments (Textual)

F509 Ss. 87A, 87B inserted (1.1.1996) by 1995 c. 40, **s. 38**: S.I. 1995/2835, **art. 2**

F510 Words in s. 87B(2) inserted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(a), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

F511 S. 87B(2)(a)(b)(c) substituted for the words "to the Secretary of State" in s. 87B(2) (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(b), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

F512 Words in s. 87B(2)(3)(a)(b) inserted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(a), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

F513 S. 87B(4) substituted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(c), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

Modifications etc. (not altering text)

C60 S. 87B: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

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[F514 87C Boarding schools: national minimum standards.

(1) The Secretary of State may prepare and publish statements of national minimum standards for safeguarding and promoting the welfare of children for whom accommodation is provided in a school or college.

(2) The Secretary of State shall keep the standards set out in the statements under review and may publish amended statements whenever he considers it appropriate to do so.

(3) Before issuing a statement, or an amended statement which in the opinion of the Secretary of State effects a substantial change in the standards, the Secretary of State shall consult any persons he considers appropriate.

(4) The standards shall be taken into account—

(a) in the making by the appropriate authority of any determination under section 87(4) or (4A);

(b) in the making by a person appointed under section 87A(1) of any determination under section 87B(2); and

(c) in any proceedings under any other enactment in which it is alleged that the person has failed to comply with section 87(1).**]**

Annotations:

Amendments (Textual)

F514 S. 87C inserted (1.7.2001 (W.) and 20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force) by 2000 c. 14, **s. 107**; S.I. 2001/2190, art. 2, **Sch.**; S.I. 2001/3852, **art. 3(3)(d)(ii)(7)(h)**(subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**))

Modifications etc. (not altering text)

C61 S. 87C: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

[F515 87D Annual fee for boarding school inspections.

(1) Regulations under subsection (2) may be made in relation to any school or college in respect of which the appropriate authority is required to take steps under section 87(3).

(2) The Secretary of State may by regulations require the relevant person to pay the appropriate authority an annual fee of such amount, and within such time, as the regulations may specify.

(3) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.**]**

Annotations:

Amendments (Textual)

F515 S. 87D inserted (1.7.2001 (W.) and 20.11.2001 for specified purposes otherwise 1.4.2002 (E.)) by 2000 c. 14, **s. 108**; S.I. 2001/2090, art. 2(1), **Sch.**; S.I. 2001/3852, **art. 3(3)(a)(iii)(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, **art. 5**; S.I.

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2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2**, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**))

Modifications etc. (not altering text)
C62 S. 87D: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

Adoption

88 Amendments of adoption legislation.

(1) [F516] . . . . . .

(2)

[[F517]The [M32]Adoption (Scotland) Act 1978 shall have effect subject to the amendments made by Part II of Schedule 10.**]**

Annotations:

Amendments (Textual)
F516 S. 88(1) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 67, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**
F517 S. 88(2) repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information
I76 S. 88(1) in force at 1.5.1991 so far as it relates to Sch. 10 para. 21; s. 88 wholly in force 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3**

Marginal Citations
M32 1978 c. 28.

Paternity tests

[F518]89 . . . . . .

Annotations:

Amendments (Textual)
F518 S. 89 repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

Criminal care and supervision orders

90 Care and supervision orders in criminal proceedings.

(1) The power of a court to make an order under subsection (2) of section 1 of the [M33]Children and Young Persons Act 1969 (care proceedings in **[**[F519] youth courts**]**)

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where it is of the opinion that the condition mentioned in paragraph (f) of that subsection ("the offence condition") is satisfied is hereby abolished.

(2) The powers of the court to make care orders—

(a) under section 7(7)(a) of the Children and Young Persons Act 1969 (alteration in treatment of young offenders etc.); and

(b) under section 15(1) of that Act, on discharging a supervision order made under section 7(7)(b) of that Act,

are hereby abolished.

(3) The powers given by that Act to include requirements in supervision orders shall have effect subject to amendments made by Schedule 12.

Annotations:

Amendments (Textual)

F519 Words in s. 90(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40** (2)(r); S.I. 1992/333, art. 2(2), **Sch.2**.

Commencement Information

I77 S. 90 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M33 1969 c. 54.

Effect and duration of orders etc.

91 Effect and duration of orders etc.

(1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

(2) The making of a care order with respect to a child who is the subject of any section 8 order discharges that order.

[[F520](2A) Where a contact activity direction has been made as regards contact with a child, the making of a care order with respect to the child discharges the direction.**]**

(3) The making of a care order with respect to a child who is the subject of a supervision order discharges that other order.

(4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.

(5) The making of a care order with respect to a child who is the subject of a school attendance order made under **[**[F521]section 437 of the Education Act 1996**]** discharges the school attendance order.

[[F522](5A) The making of a special guardianship order with respect to a child who is the subject of—

(a) a care order; or

(b) an order under section 34,

discharges that order.**]**

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(6) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.

(7) Any order made under section 4(1) **[**F523 4ZA(1),**][**F524 4A(1)**]** or 5(1) shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.

(8) Any—

(a) agreement under section 4 **[**F525, 4ZA**][**F526 or 4A**]**; or

(b) appointment under section 5(3) or (4),

shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.

(9) An order under Schedule 1 has effect as specified in that Schedule.

(10) A section 8 order **[**F527 other than a residence order**]** shall, if it would otherwise still be in force, cease to have effect when the child reaches the age of sixteen, unless it is to have effect beyond that age by virtue of section 9(6)F528 ... .

(11) Where a section 8 order has effect with respect to a child who has reached the age of sixteen, it shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.

(12) Any care order, other than an interim care order, shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.

(13) Any order made under any other provision of this Act in relation to a child shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.

(14) On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

(15) Where an application ("the previous application") has been made for—

(a) the discharge of a care order;

(b) the discharge of a supervision order;

(c) the discharge of an education supervision order;

(d) the substitution of a supervision order for a care order; or

(e) a child assessment order,

no further application of a kind mentioned in paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds six months.

(16) Subsection (15) does not apply to applications made in relation to interim orders.

(17) Where—

(a) a person has made an application for an order under section 34;

(b) the application has been refused; and

(c) a period of less than six months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless he has obtained the leave of the court.

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Annotations:

Amendments (Textual)

F520 S. 91(2A) inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 9**; S.I. 2008/2870, **art. 2(2)(e)**

F521 Words in s. 91(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37**, Pt. I para. 90 (with Sch. 39, paras. 30, 39)

F522 S. 91(5A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 68(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F523 Words in s. 91(7) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 29(a)**; S.I. 2009/479, **art. 6(1)(e)**

F524 Words in s. 91(7) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 68(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F525 Words in s. 91(8)(a) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 29(b)**; S.I. 2009/479, **art. 6(1)(e)**

F526 Words in s. 91(8) inserted (30.12.2005) by 2002 c. 38, ss 139, 148, Sch. 3 para. 68(c) (with Sch. 4 paras. 6-8): S.I. 2005/2213, **art. 2(o)**

F527 Words in s. 91(10) inserted (1.9.2009) by Children and Young Persons Act 2008 (c. 23), **ss. 37(3)(a)**, 44; S.I. 2009/1921, **art. 2(b)**; S.I. 2009/2273, **art. 2(2)(k)**

F528 Words in s. 91(10) repealed (1.9.2009) by Children and Young Persons Act 2008 (c. 23), ss. 37(3)(b), 42, 44, **Sch. 4**; S.I. 2009/1921, **art. 2(b)(d)**; S.I. 2009/2273, **art. 2(2)(k)(m)**

Commencement Information

I78 S. 91 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Jurisdiction and procedure etc.

92 Jurisdiction of courts.

(1) The name "domestic proceedings", given to certain proceedings in magistrates' courts, is hereby changed to "family proceedings" and the names "domestic court" and "domestic court panel" are hereby changed to "family proceedings court" and "family panel", respectively.

(2) Proceedings under this Act shall be treated as family proceedings in relation to magistrates' courts.

(3) Subsection (2) is subject to the provisions of section 65(1) and (2) of the [M34]Magistrates' Courts Act 1980 (proceedings which may be treated as not being family proceedings), as amended by this Act.

(4) A magistrates' court shall not be competent to entertain any application, or make any order, involving the administration or application of—

(a) any property belonging to or held in trust for a child; or

(b) the income of any such property.

(5) The powers of a magistrates' court under section 63(2) of the Act of 1980 to suspend or rescind orders shall not apply in relation to any order made under this Act.

(6) Part I of Schedule 11 makes provision, including provision for the Lord Chancellor to make orders, with respect to the jurisdiction of courts and justices of the peace in relation to—

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(a) proceedings under this Act; and
(b) proceedings under certain other enactments.

(7) For the purposes of this Act "the court" means the High Court, a county court or a magistrates' court.

(8) Subsection (7) is subject to the provision made by or under Part I of Schedule 11 and to any express provision as to the jurisdiction of any court made by any other provision of this Act.

(9) The Lord Chancellor may **[**[F529], after consulting the Lord Chief Justice,**]** by order make provision for the principal registry of the Family Division of the High Court to be treated as if it were a county court for such purposes of this Act, or of any provision made under this Act, as may be specified in the order.

(10) Any order under subsection (9) may make such provision as the Lord Chancellor thinks expedient **[**[F530], after consulting the Lord Chief Justice,**]** for the purpose of applying (with or without modifications) provisions which apply in relation to the procedure in county courts to the principal registry when it acts as if it were a county court.

[[F531](10A) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (9) or (10).**]**

(11) Part II of Schedule 11 makes amendments consequential on this section.

Annotations:

Amendments (Textual)

F529 Words in s. 92(9) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 205(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F530 Words in s. 92(10) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 205(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F531 S. 92(10A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 205(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Modifications etc. (not altering text)

C63 S. 92(2) excluded (14.10.1991) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 60(3)**; S.I. 1991/2208, art. 2(1), **Sch. 1**

C64 S. 92(7)–(10) applied by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), **ss. 30(8)(9)**, 39(3), 43(2)

Commencement Information

I79 S. 92 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M34 1980 c. 43.

93 Rules of court.

(1) An authority having power to make rules of court may make such provision for giving effect to—

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(a) this Act;

(b) the provisions of any statutory instrument made under this Act; or

(c) any amendment made by this Act in any other enactment,

as appears to that authority to be necessary or expedient.

(2) The rules may, in particular, make provision—

(a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);

(b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;

[[F532](bb) for children to be separately represented in relevant proceedings,**]**

(c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;

(d) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a magistrates' court to relevant proceedings in such a court brought otherwise than on a complaint;

(e) with respect to preliminary hearings;

(f) for the service outside **[**[F533]England and Wales**]**, in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a magistrates' court;

(g) for the exercise by magistrates' courts, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is **[**[F534]or resides**]** outside England and Wales);

(h) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings;

(i) authorising a single justice to discharge the functions of a magistrates' court with respect to such relevant proceedings as may be prescribed;

(j) authorising a magistrates' court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.

(3) In subsection (2)—

"notice of proceedings" means a summons or such other notice of proceedings as is required; and "given", in relation to a summons, means "served";

"prescribed" means prescribed by the rules; and

"relevant proceedings" means any application made, or proceedings brought, under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) and any part of such proceedings.

(4) This section and any other power in this Act to make rules of court are not to be taken as in any way limiting any other power of the authority in question to make rules of court.

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(5) When making any rules under this section an authority shall be subject to the same requirements as to consultation (if any) as apply when the authority makes rules under its general rule making power.

Annotations:

Amendments (Textual)

F532 S. 93(2)(bb) inserted (7.12.2004) by 2002 c. 38, ss. 122(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(l)**

F533 Words in s. 93(2)(f) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 22(a)**; S.I. 1991/1883, art. 3, **Sch.**

F534 Words in s. 93(2)(g) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 22(b)**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I80 S. 93 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

94 Appeals.

(1) **[**F535Subject to any express provisions to the contrary made by or under this Act, an**]** appeal shall lie to **[**F536a county court **]** against—

(a) the making by a magistrates' court of any order under this Act **[**F537or the Adoption and Children Act 2002**]** ; or

(b) any refusal by a magistrates' court to make such an order.

(2) Where a magistrates' court has power, in relation to any proceedings under this Act **[**F537or the Adoption and Children Act 2002**]** , to decline jurisdiction because it considers that the case can more conveniently be dealt with by another court, no appeal shall lie against any exercise by that magistrates' court of that power.

(3) Subsection (1) does not apply in relation to an interim order for periodical payments made under Schedule 1.

(4) On an appeal under this section, **[**F536a county court **]** may make such orders as may be necessary to give effect to its determination of the appeal.

(5) Where an order is made under subsection (4) **[**F536a county court **]** may also make such incidental or consequential orders as appear to it to be just.

(6) Where an appeal from a magistrates' court relates to an order for the making of periodical payments, **[**F536a county court **]** may order that its determination of the appeal shall have effect from such date as it thinks fit to specify in the order.

(7) The date so specified must not be earlier than the earliest date allowed in accordance with rules of court made for the purposes of this section.

(8) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, **[**F536a county court **]** reduces the amount of those payments or discharges the order—

(a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as **[**F538the county court**]** thinks fit; and

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(b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.

(9) Any order of **[**F536a county court **]** made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes—

(a) of the enforcement of the order; and

(b) of any power to vary, revive or discharge orders,

be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of **[**F536a county court **]**.

(10) The Lord Chancellor may **[**F539, after consulting the Lord Chief Justice,**]** by order make provision as to the circumstances in which appeals may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11.

(11) Except to the extent provided for in any order made under subsection (10), no appeal may be made against any decision of a kind mentioned in that subsection.

[F540(12) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (10).**]**

Annotations:

Amendments (Textual)

F535 Words in s. 94(1) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 23**; S.I. 1991/1883, art. 3, **Sch.**

F536 Words in s. 94 substituted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 7(2)** (with art. 16)

F537 Words in s. 94(1)(a)(2) inserted (30.12.2005) by 2002 c. 38, ss. 100, 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(h)**

F538 Words in s. 94(8)(a) substituted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 7(3)** (with art. 16)

F539 Words in s. 94(10) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 206(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F540 S. 94(12) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 206(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Commencement Information

I81 S. 94 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

95 Attendance of child at hearing under Part IV or V.

(1) In any proceedings in which a court is hearing an application for an order under Part IV or V, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.

(2) The power conferred by subsection (1) shall be exercised in accordance with rules of court.

(3) Subsections (4) to (6) apply where—

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(a) an order under subsection (1) has not been complied with; or

(b) the court has reasonable cause to believe that it will not be complied with.

(4) The court may make an order authorising a constable, or such person as may be specified in the order—

(a) to take charge of the child and to bring him to the court; and

(b) to enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises.

(5) The court may order any person who is in a position to do so to bring the child to the court.

(6) Where the court has reason to believe that a person has information about the whereabouts of the child it may order him to disclose it to the court.

Annotations:

Commencement Information

I82 S. 95 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

96 Evidence given by, or with respect to, children.

(1) Subsection (2) applies where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath.

(2) The child's evidence may be heard by the court if, in its opinion—

(a) he understands that it is his duty to speak the truth; and

(b) he has sufficient understanding to justify his evidence being heard.

(3) The Lord Chancellor may **[**[F541], with the concurrence of the Lord Chief Justice,**]** by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.

(4) An order under subsection (3) may only be made with respect to—

(a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and

(b) evidence in connection with the upbringing, maintenance or welfare of a child.

(5) An order under subsection (3)—

(a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;

(b) may make different provision for different purposes and in relation to different descriptions of court; and

(c) may make such amendments and repeals in any enactment relating to evidence (other than in this Act) as the Lord Chancellor considers necessary or expedient in consequence of the provision made by the order.

(6) Subsection (5)(b) is without prejudice to section 104(4).

(7) In this section—

[[F542]"civil proceedings" means civil proceedings, before any tribunal, in relation to which the strict rules of evidence apply, whether as a matter of law

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or by agreement of the parties, and references to "the court" shall be construed accordingly;**]**

"prescribed" means prescribed by an order under subsection (3).

Annotations:

Amendments (Textual)

F541 Words in s. 96(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 207**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F542 Definition in s. 96(7) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para.16**(with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art.2**

Commencement Information

I83 S. 96 wholly in force at 14.10.1991; s. 96(3)-(7) in force at 16.11.1989 see s. 108(2); s. 96(1)(2) in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

97 Privacy for children involved in certain proceedings.

(1) Rules made under section 144 of the [M35]Magistrates' Courts Act 1980 may make provision for a magistrates' court to sit in private in proceedings in which any powers under this Act **[**[F543]or the Adoption and Children Act 2002**]** may be exercised by the court with respect to any child.

(2) No person shall publish **[**[F544]to the public at large or any section of the public**]** any material which is intended, or likely, to identify—

(a) any child as being involved in any proceedings before **[**[F545]the High Court, a county court or**]** a magistrates' court in which any power under this Act **[**[F543]or the Adoption and Children Act 2002**]** may be exercised by the court with respect to that or any other child; or

(b) an address or school as being that of a child involved in any such proceedings.

(3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.

(4) The court or the **[**[F546]Lord Chancellor**]** may, if satisfied that the welfare of the child requires it **[**[F547]and, in the case of the Lord Chancellor, if the Lord Chief Justice agrees**]**, by order dispense with the requirements of subsection (2) to such extent as may be specified in the order.

(5) For the purposes of this section—

"publish" includes—

(a) **[**[F548]include in a programme service (within the meaning of the Broadcasting Act 1990);**]**

(b) cause to be published; and

"material" includes any picture or representation.

(6) Any person who contravenes this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(7) Subsection (1) is without prejudice to—

(a) the generality of the rule making power in section 144 of the Act of 1980; or

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(b) any other power of a magistrates' court to sit in private.

(8) **[**F549Sections 69 (sittings of magistrates'; courts for family proceedings) and 71 (newspaper reports of certain proceedings) of the Act of 1980**]** shall apply in relation to any proceedings **[**F550(before a magistrates' court)**]** to which this section applies subject to the provisions of this section.

[F551(9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (4).**]**

Annotations:

Amendments (Textual)

F543 Words in s. 97(1)(2) inserted (30.12.2005) by 2002 c. 38, ss. 101(3), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(h)**

F544 Words in s. 97(2) inserted (12.4.2005) by Children Act 2004 (c. 31), **s. 62(1)**; S.I. 2005/847, **art. 2**

F545 Words in s. 97(2) inserted (27.9.1999) by 1999 c. 22, **ss. 72**, 108(3) (with s. 107, Sch. 14 para. 7(2))

F546 Words in s. 97(4) substituted (1.4.1992) by S.I. 1992/709, art. 3(2), **Sch. 2** (with art. 5(2)).

F547 Words in s. 97(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 208(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F548 Words in s. 97(5) substituted by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 53**

F549 Words in s. 97(8) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 24**; S.I. 1991/1883, art. 3, **Sch.**

F550 Words in s. 97(8) inserted (27.7.1999) by 1999 c. 22, **ss. 72**, 108(3) (with s. 107, Sch. 14 para. 7(2))

F551 S. 97(9) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 208(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Modifications etc. (not altering text)

C65 S. 97(2) excluded (27.9.1999) by 1999 c. 22, ss. 105, 108(1), **Sch. 14 Pt. IV para. 18** (with s. 107, Sch. 14 para. 7(2))

C66 S. 97(4): functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 3(1), **Sch. 2** (with art. 5(2)).

Commencement Information

I84 S. 97 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M35 1980 c. 43.

98 Self-incrimination.

(1) In any proceedings in which a court is hearing an application for an order under Part IV or V, no person shall be excused from—

(a) giving evidence on any matter; or

(b) answering any question put to him in the course of his giving evidence,

on the ground that doing so might incriminate him or his spouse **[**F552or civil partner**]** of an offence.

(2) A statement or admission made in such proceedings shall not be admissible in evidence against the person making it or his spouse **[**F552or civil partner**]** in proceedings for an offence other than perjury.

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Annotations:

Amendments (Textual)

F552 Words in s. 98(1)(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 261(1), **Sch. 27 para. 132**; S.I. 2005/3175, **art. 2(2)** (subject to arts. 2(3)-(5))

Commencement Information

I85 S. 98 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F553 99 .

(1) . . . . . .

(2) . . . . . .

(3) . . . . . .

(4) . . . . . .

(5) . . . . . .

Annotations:

Amendments (Textual)

F553 S. 99(1)(2)(4)(5) repealed (1.4.2000) and s. 99(3) repealed (2.4.2001) by 1999 c. 22, ss. 106, 108(1), **Sch. 15 Pt. I** (with 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(i), **Sch.** (with art. 5); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Schs. 1, 2)

100 Restrictions on use of wardship jurisdiction.

(1) Section 7 of the **M36**Family Law Reform Act 1969 (which gives the High Court power to place a ward of court in the care, or under the supervision, of a local authority) shall cease to have effect.

(2) No court shall exercise the High Court's inherent jurisdiction with respect to children —

(a) so as to require a child to be placed in the care, or put under the supervision, of a local authority;

(b) so as to require a child to be accommodated by or on behalf of a local authority;

(c) so as to make a child who is the subject of a care order a ward of court; or

(d) for the purpose of conferring on any local authority power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(3) No application for any exercise of the court's inherent jurisdiction with respect to children may be made by a local authority unless the authority have obtained the leave of the court.

(4) The court may only grant leave if it is satisfied that—

(a) the result which the authority wish to achieve could not be achieved through the making of any order of a kind to which subsection (5) applies; and

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(b) there is reasonable cause to believe that if the court's inherent jurisdiction is not exercised with respect to the child he is likely to suffer significant harm.

(5) This subsection applies to any order—

(a) made otherwise than in the exercise of the court's inherent jurisdiction; and

(b) which the local authority is entitled to apply for (assuming, in the case of any application which may only be made with leave, that leave is granted).

Annotations:

Commencement Information

I86 S. 100 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M36 1969 c. 46.

101 Effect of orders as between England and Wales and Northern Ireland, the Channel Islands or the Isle of Man.

(1) The Secretary of State may make regulations providing—

(a) for prescribed orders which—

(i) are made by a court in Northern Ireland; and

(ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision of this Act,

to have effect in prescribed circumstances, for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act;

(b) for prescribed orders which—

(i) are made by a court in England and Wales; and

(ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision in force in Northern Ireland,

to have effect in prescribed circumstances, for prescribed purposes of the law of Northern Ireland, as if they were orders of a prescribed kind made in Northern Ireland.

(2) Regulations under subsection (1) may provide for the order concerned to cease to have effect for the purposes of the law of Northern Ireland, or (as the case may be) the law of England and Wales, if prescribed conditions are satisfied.

(3) The Secretary of State may make regulations providing for prescribed orders which—

(a) are made by a court in the Isle of Man or in any of the Channel Islands; and

(b) appear to the Secretary of State to correspond in their effect to orders which may be made under this Act,

to have effect in prescribed circumstances for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act.

(4) Where a child who is in the care of a local authority is lawfully taken to live in Northern Ireland, the Isle of Man or any of the Channel Islands, the care order in question shall cease to have effect if the conditions prescribed in regulations made by the Secretary of State are satisfied.

(5) Any regulations made under this section may—

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(a) make such consequential amendments (including repeals) in—

(i) section 25 of the [M37]Children and Young Persons Act 1969 (transfers between England and Wales and Northern Ireland); or

(ii) section 26 (transfers between England and Wales and Channel Islands or Isle of Man) of that Act,

as the Secretary of State considers necessary or expedient; and

(b) modify any provision of this Act, in its application (by virtue of the regulations) in relation to an order made otherwise than in England and Wales.

Annotations:

Extent Information

E4 S. 101 extends to England and Wales only except for s. 101(1)(b)(2)(5)(a)(i) which also extend to Northern Ireland. See s. 108(11)(12)

Commencement Information

I87 S. 101 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M37 1969 c. 54.

Search warrants

102 Power of constable to assist in exercise of certain powers to search for children or inspect premises.

(1) Where, on an application made by any person for a warrant under this section, it appears to the court—

(a) that a person attempting to exercise powers under any enactment mentioned in subsection (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or

(b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any constable to assist that person in the exercise of those powers, using reasonable force if necessary.

(2) Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—

(a) that person so desires; and

(b) the court by whom the warrant is issued does not direct otherwise.

(3) A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or **[**[F554]registered midwife**]** if he so chooses.

[[F555](3A) The reference in subsection (3) to a registered midwife is to such a midwife who is also registered in the Specialist Community Public Health Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001.**]**

(4) An application for a warrant under this section shall be made in the manner and form prescribed by rules of court.

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(5) Where—

(a) an application for a warrant under this section relates to a particular child; and

(b) it is reasonably practicable to do so,

the application and any warrant granted on the application shall name the child; and where it does not name him it shall describe him as clearly as possible.

(6) The enactments are—

(a) sections 62, 64, 67, **[**F556 76,**][**F557 79U,**]** 80, 86 and 87;

(b) paragraph 8(1)(b) and (2)(b) of Schedule 3;

(c) F558 . . . . . .

Annotations:

Amendments (Textual)

F554 Words in s. 102(3) substituted (12.2.2002) by S.I. 2002/253, arts. 1, 54, **Sch. 5 para. 10(c)** (with art. 3(18)) (the substitution coming into force in accordance with art. 1(2)(3) of the said S.I. 2002/253)

F555 S. 102(3A) inserted (1.8.2004) by The Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004 (S.I. 2004/1771), art. 3, **Sch. para. 4(c)**

F556 Words in s. 102(6)(a) repealed (S.) (1.4.2002) by 2001 asp 8, ss. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

F557 Words in s. 102(6)(a) inserted (1.4.2002 for W. and otherwise*prosp.*) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(22)**; S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10)) (subject to transitional provisions in Schs. 1-3)

F558 S. 102(6)(c) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 69, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

Commencement Information

I88 S. 102 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

General

103 Offences by bodies corporate.

(1) This section applies where any offence under this Act is committed by a body corporate.

(2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Annotations:

Commencement Information

I89 s. 103 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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104 Regulations and orders. E+W

(1) Any power of the Lord Chancellor **[**F559, the Treasury**][**F560, the Secretary of State or the National Assembly for Wales**]** under this Act to make an order, regulations, or rules, except an order under section **[**F561 54(2)**]**, 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.

(2) Any such statutory instrument, except one made under section **[**F562 4(1B), **[**F563 4ZA(3),**]]** 17(4), 107 or 108(2) **[**F564 or one containing regulations which fall within subsection (3B) or (3C)**]**, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[F565 (3) An order under section **[**F566 4(1B) **[**F567, 4ZA(3)**]]** or 17(4) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

(3A) An order under section 4(1B) **[**F568, 4ZA(3)**]** 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.**]**

(4) Any statutory instrument made under this Act may—

(a) make different provision for different cases;

(b) provide for exemptions from any of its provisions; and

(c) contain F569... incidental, supplemental and transitional provisions ....

Annotations:

Extent Information

E5 This version of this provision extends to England and Wales only; a separate version has been created for Scotland

Amendments (Textual)

F559 Words in s. 104 inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 19; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F560 Words in s. 104(1) substituted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 10(a)**; S.I. 2008/2870, **art. 2(2)(e)**

F561 Words in s. 104(1) repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F562 Word in s. 104(2) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F563 Words in s. 104(2) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(a)**; S.I. 2009/479, **art. 6(1)(e)**

F564 Words in s. 104(2) inserted (E.W.) (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(2)**

F565 S. 104(3A)-(3C) substituted (E.W.) (13.11.2008) for s. 104(3) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(4)**

F566 Words in s. 104(3) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F567 Words in s. 104(3) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(b)**; S.I. 2009/479, **art. 6(1)(e)**

F568 Words in s. 104(3A) inserted (1.9.2009) by The Human Fertilisation and Embryology (Consequential Amendments and Transitional and Saving Provisions) Order 2009 (S.I. 2009/1892), art. 2, **Sch. 1 para. 2**

F569 Words in s. 104(4)(c) omitted (E.W.) (13.11.2008) by Children and Young persons Act 2008 (c. 23), ss. 39, 44, {Sch. 3 para. 25(5)} and repealed (prosp.) (E.W.) by s. 42, {Sch. 4} of the same Act.

Commencement Information

I90 S. 104 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

104 Regulations and orders. S

(1) Any power of the Lord Chancellor **[**[F559], the Treasury**][**[F560], the Secretary of State or the National Assembly for Wales**]** under this Act to make an order, regulations, or rules, except an order under section **[**[F561]54(2)**]**, 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.

(2) Any such statutory instrument, except one made under section **[**[F562]4(1B),**][**[F948]4ZA(3),**]** 17(4), 107 or 108(2), shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[[F949](2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales.**]**

(3) An order under section **[**[F566]4(1B) or**][**[F950], 4ZA(3)**]**17(4) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

(4) Any statutory instrument made under this Act may—

(a) make different provision for different cases;

(b) provide for exemptions from any of its provisions; and

(c) contain such incidental, supplemental and transitional provisions as the person making it considers expedient.

Annotations:

Extent Information

E11 This version of this provision extends to Scotland only; a separate version has been created for England and Wales

Amendments (Textual)

F559 Words in s. 104 inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 19; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)

F560 Words in s. 104(1) substituted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 10(a)**; S.I. 2008/2870, **art. 2(2)(e)**

F561 Words in s. 104(1) repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the

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amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F562 Word in s. 104(2) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F566 Words in s. 104(3) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**

F948 Words in s. 104(2) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(a)**; S.I. 2009/479, **art. 6(1)(e)**

F949 S. 104(2A) inserted (8.12.2008 for S. and otherwise prosp.) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, Sch. 2 para. 10(b) and omitted (E.W.) (13.11.2008) by Children and young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(3)** and repealed (E.W.) (prosp.) by s. 42, {Sch. 4} of the same Act; S.I. 2008/2870, **art. 2(2)(e)**

F950 Words in s. 104(3) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(b)**; S.I. 2009/479, **art. 6(1)(e)**

Commencement Information

I90 S. 104 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F570 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.**]**

Annotations:

Amendments (Textual)

F570 S. 104A inserted (E.W.) (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 26**

105 Interpretation.

(1) In this Act—

"adoption agency" means a body which may be referred to as an adoption agency by virtue of **[**F571section 2 of the Adoption and Children Act 2002**]**;

[F572"appropriate children's home" has the meaning given by section 23;**]**

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"bank holiday" means a day which is a bank holiday under the [M38]Banking and Financial Dealings Act 1971;

[[F573]"care home" has the same meaning as in the Care Standards Act 2000;

"care order" has the meaning given by section 31(11) and also includes any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Act; and any reference to a child who is in the care of an authority is a reference to a child who is in their care by virtue of a care order;

"child" means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen;

"child assessment order" has the meaning given by section 43(2);

[[F574]"child minder" has the meaning given by section 71;**]**

[[F575]"child of the family", in relation to parties to a marriage, or to two people who are civil partners of each other, means—

(a) a child of both of them, and

(b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both of them as a child of their family.**]**

[[F576]"children's home" has the meaning given by section 23;**]**

"community home" has the meaning given by section 53;

[[F577]"contact activity condition" has the meaning given by section 11C;**]**

[[F578]"contact activity direction" has the meaning given by section 11A;**]**

"contact order" has the meaning given by section 8(1);

"day care" **[**[F579](except in Part XA)**]** has the same meaning as in section 18;

"disabled", in relation to a child, has the same meaning as in section 17(11);

[F580]. . .

"domestic premises" has the meaning given by section 71(12);

[[F581]"dwelling-house" includes—

(a) any building or part of a building which is occupied as a dwelling;

(b) any caravan, house-boat or structure which is occupied as a dwelling;

and any yard, garden, garage or outhouse belonging to it and occupied with it;**]**

"education supervision order" has the meaning given in section 36;

"emergency protection order" means an order under section 44;

[[F582]"enforcement order" has the meaning given by section 11J;**]**

"family assistance order" has the meaning given in section 16(2);

"family proceedings" has the meaning given by section 8(3);

"functions" includes powers and duties;

"guardian of a child" means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 5;

"harm" has the same meaning as in section 31(9) and the question of whether harm is significant shall be determined in accordance with section 31(10);

[F583]. . . . . .

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"health service hospital" **[**F584means a health service hospital within the meaning given by the National Health Service Act 2006 or the National Health Service (Wales) Act 2006**]**

"hospital" **[**F585(except in Schedule 9A)**]** has the same meaning as in the M39Mental Health Act 1983, except that it does not include a special hospital within the meaning of that Act;

"ill-treatment" has the same meaning as in section 31(9);

[F586"income-based jobseeker's allowance" has the same meaning as in the Jobseekers Act 1995;**]**

[F587"income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);**]**

[F588"independent hospital" has the same meaning as in the Care Standards Act 2000;

"independent school" has the same meaning as in **[**F589the Education Act 1996**]**;

"local authority" means, in relation to England F590. . ., the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London **[**F591in relation to Wales, the council of a county or a county borough**]** and, in relation to Scotland, a local authority within the meaning of section 1(2) of the M40Social Work (Scotland) Act 1968;

"local authority foster parent" has the same meaning as in section 23(3);

"local education authority" has the same meaning as in **[**F589the Education Act 1996**]**;

[F592"Local Health Board" means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;**]**

"local housing authority" has the same meaning as in the M41Housing Act 1985;

[F593"mental nursing home" has the same meaning as in the M42Registered Homes Act 1984;**]**

[F594"nursing home" has the same meaning as in the Act of 1984;**]**

[F595"officer of the Service" has the same meaning as in the Criminal Justice and Court Services Act 2000;**]**

"parental responsibility" has the meaning given in section 3;

"parental responsibility agreement" has the meaning given in **[**F596sections 4(1) **[**F597, 4ZA(4)**]**and 4A(2)**]**;

"prescribed" means prescribed by regulations made under this Act;

[F598"private children's home" means a children's home in respect of which a person is registered under Part II of the Care Standards Act 2000 which is not a community home or a voluntary home;**]**

[F599"Primary Care Trust" means a Primary Care Trust established under **[**F600section 18 of the National Health Service Act 2006**]**;

"privately fostered child" and "to foster a child privately" have the same meaning as in section 66;

"prohibited steps order" has the meaning given by section 8(1);

F601 . . . . . .

[F602"registered children's home" has the same meaning as in section 63;**]**

"registered pupil" has the same meaning as in **[**F589the Education Act 1996**]**;

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"relative", in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or **[**F603by marriage or civil partnership)**]** or step-parent;

"residence order" has the meaning given by section 8(1);

[F604"residential care home" has the same meaning as in the Registered Homes Act 1984 **[**F605 and "small home" has the meaning given by section 1(4A) of that Act**]**;**]**

"responsible person", in relation to a child who is the subject of a supervision order, has the meaning given in paragraph 1 of Schedule 3;

"school" has the same meaning as in **[**F589the Education Act 1996**]** or, in relation to Scotland, in the M43Education (Scotland) Act 1980;

[F606"section 31A plan" has the meaning given by section 31A(6);**]**

"service", in relation to any provision made under Part III, includes any facility;

"signed", in relation to any person, includes the making by that person of his mark;

"special educational needs" has the same meaning as in **[**F607the Education Act 1996**]**;

[F608"special guardian" and "special guardianship order" have the meaning given by section 14A;**]**

[F609"Special Health Authority" means a Special Health Authority established under **[**F610section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006,**]**;**]**

"specific issue order" has the meaning given by section 8(1);

[F611"Strategic Health Authority" means a Strategic Health Authority established under **[**F612section 13 of the National Health Service Act 2006**]**;**]**

"supervision order" has the meaning given by section 31(11);

"supervised child" and "supervisor", in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

"upbringing", in relation to any child, includes the care of the child but not his maintenance;

"voluntary home" has the meaning given by section 60;

"voluntary organisation" means a body (other than a public or local authority) whose activities are not carried on for profit.

[F613"Welsh family proceedings officer" has the meaning given by section 35 of the Children Act 2004.**]**

(2) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the M44Family Law Reform Act 1987 (which extends the meaning of such references).

(3) References in this Act to—

(a) a person with whom a child lives, or is to live, as the result of a residence order; or

(b) a person in whose favour a residence order is in force,

shall be construed as references to the person named in the order as the person with whom the child is to live.

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(4) References in this Act to a child who is looked after by a local authority have the same meaning as they have (by virtue of section 22) in Part III.

(5) References in this Act to accommodation provided by or on behalf of a local authority are references to accommodation so provided in the exercise of functions **[**F614of that or any other local authority which are social services functions within the meaning of**]** the M45Local Authority Social Services Act 1970.

[F615(5A) References in this Act to a child minder shall be construed—

[F616(a) in relation to Scotland, in accordance with section 71;**]**

(b) in relation to F617... Wales, in accordance with section 79A.**]**

[F618(5B) References in this Act to acting as a child minder and to a child minder shall be construed, in relation to Scotland, in accordance with section 2(17) of the Regulation of Care (Scotland) Act 2001 (asp 8).**]**

(6) In determining the "ordinary residence" of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—

(a) which is a school or other institution;

(b) in accordance with the requirements of a supervision order under this Act F619...

[F620(ba) in accordance with the requirements of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008; or**]**

(c) while he is being provided with accommodation by or on behalf of a local authority.

(7) References in this Act to children who are in need shall be construed in accordance with section 17.

(8) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service at his proper address.

(9) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(10) For the purposes of this section, and of section 7 of the M46Interpretation Act 1978 in its application to this section, the proper address of a person—

(a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;

(b) in the case of a partner of a firm, shall be that of the principal office of the firm; and

(c) in any other case, shall be the last known address of the person to be served.**]]]**

Annotations:

Amendments (Textual)

F571 S. 105(1): words in definition of "adoption agency" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F572 S. 105(1): definition of "appropriate children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(i)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

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F573 S. 105(1): definition of "care home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(ii)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F574 S. 105(1): definition of "child minder" repealed (1.4.2002 for W. and otherwise (prosp.) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2002/ 920, art. 3(3)(g) (with arts. 3(5)-(10))

F575 S. 105(1): definition of "child of the family" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 75(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F576 S. 105(1): definition of "children's home" substituted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(iii)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F577 S. 105(1): definition of "contact activity condition" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**

F578 S. 105(1): definition of "contact activity direction" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**

F579 S. 105(1): words in the definition of "day care" inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(iv)**; S.I. 2001/2041, **art. 2(1)(d)(ii)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F580 Definition of "district health authority" in s. 105(1) repealed (1.4.1996) by 1995 c. 17, ss.2(1), 5(1)(2), **Schs. 1**, para. 118(10)(a), 3(with Sch. 2 paras. 6, 16)

F581 Definition in s. 105(1) inserted (1.10.1997) by 1996, c. 27, s. 52, Sch. 6 para. 5(with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3**

F582 S. 105(1): definition of "enforcement order" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), s. 15, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**

F583 S. 105: definition of "health authority" omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(a)**

F584 S. 105: words in definition of "health service hospital" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(b)**

F585 S. 105(1): words in the definition of "hospital" inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(v)**; S.I. 2001/2041, **art. 2(1)(d)(ii)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F586 Definition of "income-based jobseeker's allowance" in s. 105 inserted (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(4)**; S.I. 1996/2208, **art. 2(b)**

F587 S. 105(1): definition of "income-related employment and support allowance" inserted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(5)**; S.I. 2008/787, **art. 2(4)(f)**

F588 S. 105(1): definition of "independent hospital" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(vi)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F589 Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37**, Pt. I para. 91(with Sch. 39, paras. 30, 39)

F590 Words in s. 105(1) repealed (1.4.1996) by 1994 c. 19, ss. 22(4), s. 66(8), Sch. 10 para. 13, **Sch. 18**(with s. 66(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

F591 Words in definition of "local authority" in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 13** (with s. 66(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

F592 S. 105: definition of "Local Health Board" inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(3)**

F593 S. 105(1): definition of "mental nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the

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commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6)**;S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F594 S. 105(1): definition of "nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6)**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F595 S. 105(1): definition of "officer of the Service" inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 95**; S.I. 2001/919, **art. 2(f)(ii)**

F596 S. 105(1): words in definition of "parental responsibility agreement" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F597 S. 105(1): word in the definition of "parental responsibility agreement" inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 31**; S.I. 2009/479, **art. 6(1)(e)**

F598 S. 105(1): definition of "private children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(vii)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6)**; S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F599 S. 105(1): definition of "Primary Care Trust" inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(10)** (with art. 2(5))

F600 S. 105: words in definition of "Primary Care Trust" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(c)**

F601 S. 105(1): definition of "protected child" repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(d), Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F602 S. 105(1): definition of "registered children's home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6)**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F603 S. 105(1): words in definition of "relative" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 75(4)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F604 S. 105(1): definition of "residential care home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6)**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F605 Words in s. 105(1) inserted (1.4.1993) by Registered Homes Act 1991 (c. 20, SIF 113:3), **s. 2(6)**; S.I. 1992/2240, **art. 2**.

F606 S. 105(1): definition of "section 31A plan" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(b) (with Sch. 4 paras 6-8); S.I. 2005/2213, **art. 2(o)**

F607 Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I**, para. 91(with Sch. 39, paras. 30, 39)

F608 S. 105(1): definition of "special guardian" and "special guardianship order" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(e) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F609 Definition of "special health authority" in s. 105(1) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(10)(c)(with Sch. 2 para. 6)

F610 S. 105: words in definition of "Special Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(d)**

F611 S. 105(1): definition of "Strategic Health Authority" inserted (1.10.2002) by S.I. 2002/2469, reg. 4, **Sch. 1 Pt. 1 para. 16(3)**

F612 S. 105: words in definition of "Strategic Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(e)**

F613 S. 105(1): definition of "Welsh family proceedings officer" inserted (1.4.2005) by Children Act 2004, (c. 31), s. 40, {Sch. 3 para. 11}; S.I. 2005/700, **art. 2(2)**

F614 Words in s. 105(5) substituted (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 22**; S.I. 2000/2849, **art. 2(f)**

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F615 S. 105(5A) inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 116, **Sch. 4 para. 14(23)(b)**; S.I. 2001/2041, **art. 2(1)(d)(ii)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F616 S. 105(5A)(a) repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 15(2)(a)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)

F617 Words in s. 105(5A)(b) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 17** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F618 S. 105(5B) inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 15(2)(b)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)

F619 Words in s. 105(6)(b) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 36(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)(u)(xi)**

F620 S. 105(6)(ba) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 36(b)** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**

Modifications etc. (not altering text)

C67 S. 105(4) applied (5.12.2003) (S.) by 1995 c. 36, s. 29(7) (as added (5.12.2003) (S.) by 2001 asp 8, ss. 73(1)(b), 81(1)); S.S.I. 2003/596, **art. 3(2)**

Commencement Information

I91 S. 105 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M38 1971 c. 80.
M39 1983 c. 20.
M40 1968 c. 49.
M41 1985 c. 68.
M42 1984 c. 23.
M43 1980 c. 44.
M44 1987 c. 42.
M45 1970 c. 42.
M46 1978 c. 30.

106 Financial provisions.

(1) Any—

(a) grants made by the Secretary of State under this Act; and

(b) any other expenses incurred by the Secretary of State under this Act,

shall be payable out of money provided by Parliament.

(2) Any sums received by the Secretary of State under section 58, or by way of the repayment of any grant made under section 82(2) or (4) shall be paid into the Consolidated Fund.

Annotations:

Commencement Information

I92 S. 106 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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107 Application to Channel Islands.

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to any of the Channel Islands with such exceptions and modifications as may be specified in the Order.

Annotations:

Commencement Information

I93 S. 107 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

108 Short title, commencement extent etc.

(1) This Act may be cited as the Children Act 1989.

(2) Sections 89 and 96(3) to (7), and paragraph 35 of Schedule 12, shall come into force on the passing of this Act and paragraph 36 of Schedule 12 shall come into force at the end of the period of two months beginning with the day on which this Act is passed but otherwise this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or the Secretary of State, or by both acting jointly.

(3) Different dates may be appointed for different provisions of this Act and in relation to different cases.

(4) The minor amendments set out in Schedule 12 shall have effect.

(5) The consequential amendments set out in Schedule 13 shall have effect.

(6) The transitional provisions and savings set out in Schedule 14 shall have effect.

(7) The repeals set out in Schedule 15 shall have effect.

(8) An order under subsection (2) may make such transitional provisions or savings as appear to the person making the order to be necessary or expedient in connection with the provisions brought into force by the order, including—

(a) provisions adding to or modifying the provisions of Schedule 14, and

(b) such adaptations—

(i) of the provisions brought into force by the order; and

(ii) of any provisions of this Act then in force,

as appear to him necessary or expedient in consequence of the partial operation of this Act.

(9) The Lord Chancellor may by order make such amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.

(10) This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.

(11) The following provisions of this Act extend to Scotland—

[[F621]section 19;**]**

section 25(8);

section 50(13);

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[[F621]Part X;
section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);**]**
section 88;
section 104 (so far as necessary);
section 105 (so far as necessary);
subsections (1) to (3), (8) and (9) and this subsection;
in Schedule 2, paragraph 24;
in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44;
in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71;
in Schedule 14, paragraphs 1, 33 and 34;
in Schedule 15, the entries relating to—

(a) the [M47]Custody of Children Act 1891;
(b) the [M48]Nurseries and Child Minders Regulation Act 1948;
(c) section 53(3) of the [M49]Children and Young Persons Act 1963;
(d) section 60 of the [M50]Health Services and Public Health Act 1968;
(e) the [M51]Social Work (Scotland) Act 1968;
(f) the [M52]Adoption (Scotland) Act 1978;
(g) the [M53]Child Care Act 1980;
(h) the [M54]Foster Children (Scotland) Act 1984;
(i) the [M55]Child Abduction and Custody Act 1985; and
(j) the [M56]Family Law Act 1986.

(12) The following provisions of this Act extend to Northern Ireland—
section 50;
section 101(1)(b), (2) and (5)(a)(i);
subsections (1) to (3), (8) and (9) and this subsection;
in Schedule 2, paragraph 24;
in Schedule 12, paragraphs 7 to 10, 18 and 27;
in Schedule 13, paragraphs 21, 22, 46, 47, 57, 62, 63, 68(c) to (e) and 69 to 71;
in Schedule 14, paragraphs [F622]. . ., 28 to 30 and 38(a); and
in Schedule 15, the entries relating to the [M57]Guardianship of Minors Act 1971, the [M58]Children Act 1975, the Child Care Act 1980, and the Family Law Act 1986.

Annotations:

Extent Information

E6 S. 108 extends to England and Wales, except s. 108(1)(3)(8)(9) which extend to the United Kingdom. See s. 108(11)(12).

Amendments (Textual)

F621 Words in s. 108(11) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

F622 Word in s. 108(12) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 25, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

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Marginal Citations

M47 1891 c. 3.
M48 1948 c. 53.
M49 1963 c. 37.
M50 1968 c. 46.
M51 1968 c. 49.
M52 1978 c. 28.
M53 1980 c. 5.
M54 1984 c. 56.
M55 1985 c. 60.
M56 1986 c. 55.
M57 1971 c. 3.
M58 1975 c. 72

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SCHEDULES

[F623SCHEDULE A1

ENFORCEMENT ORDERS

Annotations:

Amendments (Textual)

F623 Sch. A1 inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), s. 4, **Sch. 1**; S.I. 2008/2870, **art. 2(2)(c)**

PROSPECTIVE

PART 1

UNPAID WORK REQUIREMENT

General

1 Subject to the modifications in paragraphs 2 and 3, Chapter 4 of Part 12 of the Criminal Justice Act 2003 has effect in relation to an enforcement order as it has effect in relation to a community order (within the meaning of Part 12 of that Act).

References to an offender

2 Subject to paragraph 3, references in Chapter 4 of Part 12 of the Criminal Justice Act 2003 to an offender are to be treated as including references to a person subject to an enforcement order.

Specific modifications

3 (1) The power of the Secretary of State by order under section 197(3) to amend the definition of "responsible officer" and to make consequential amendments includes power to make any amendments of this Part (including further modifications of Chapter 4 of Part 12 of the Criminal Justice Act 2003) that appear to the Secretary of State to be necessary or expedient in consequence of any amendment made by virtue of section 197(3)(a) or (b).

(2) In section 198 (duties of responsible officer)—

(a) in subsection (1)—

(i) at the end of paragraph (a) insert " and ", and

(ii) omit paragraph (c) and the word "and" immediately preceding it, and

(b) after subsection (1) insert—

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"(1A) Subsection (1B) applies where—

(a) an enforcement order is in force, and

(b) an officer of the Children and Family Court Advisory and Support Service or a Welsh family proceedings officer (as defined in section 35 of the Children Act 2004) is required under section 11M of the Children Act 1989 to report on matters relating to the order.

(1B) The officer of the Service or the Welsh family proceedings officer may request the responsible officer to report to him on such matters relating to the order as he may require for the purpose of making a report under section 11M(1)(c) or (d); and it shall be the duty of the responsible officer to comply with such a request."

(3) In section 199 (unpaid work requirement)—

(a) in subsection (2)(minimum and maximum hours of unpaid work) for paragraph (b) substitute—

"(b) not more than 200.",

(b) omit subsections (3) and (4), and

(c) in subsection (5) for the words from the beginning to "of them" substitute " Where on the same occasion and in relation to the same person the court makes more than one enforcement order imposing an unpaid work requirement ".

(4) In section 200 (obligations of person subject to unpaid work requirement), for subsection (2) substitute—

"(2) Subject to paragraphs 7 and 9 of Schedule A1 to the Children Act 1989, the work required to be performed under an unpaid work requirement imposed by an enforcement order must be performed during a period of twelve months.

(2A) But the period of twelve months is not to run while the enforcement order is suspended under section 11J(9) of the Children Act 1989."

(5) Section 217 (requirement to avoid conflict with religious beliefs, etc) is omitted.

(6) In section 218 (availability of arrangements in local area), subsection (1)(condition for imposition of unpaid work requirement) is omitted.

(7) Section 219 (provision of copies of relevant order) is omitted.

(8) The power of the Secretary of State to make rules under section 222 in relation to persons subject to relevant orders may also be exercised in relation to persons subject to enforcement orders.

(9) The power of the Secretary of State by order under section 223(1) to amend the provision mentioned in section 223(1)(a) includes power to amend this Part so as to make such modifications of Chapter 4 of Part 12 of the Criminal Justice Act 2003 as appear to the Secretary of State to be necessary or expedient in consequence of any amendment of the provision mentioned in section 223(1)(a).

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PROSPECTIVE

PART 2

REVOCATION, AMENDMENT OR BREACH OF ENFORCEMENT ORDER

Power to revoke

4 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) The court may revoke the enforcement order if it appears to the court that—

(a) in all the circumstances no enforcement order should have been made,

(b) having regard to circumstances which have arisen since the enforcement order was made, it would be appropriate for the enforcement order to be revoked, or

(c) having regard to the person's satisfactory compliance with the contact order or any contact order that has effect in its place, it would be appropriate for the enforcement order to be revoked.

(3) The enforcement order may be revoked by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

(4) In deciding whether to revoke the enforcement order under sub-paragraph (2)(b), the court is to take into account—

(a) the extent to which the person subject to the enforcement order has complied with it, and

(b) the likelihood that the person will comply with the contact order or any contact order that has effect in its place in the absence of an enforcement order.

(5) In deciding whether to revoke the enforcement order under sub-paragraph (2)(c), the court is to take into account the likelihood that the person will comply with the contact order or any contact order that has effect in its place in the absence of an enforcement order.

Amendment by reason of change of residence

5 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) If the court is satisfied that the person has changed, or proposes to change, his residence from the local justice area specified in the order to another local justice area, the court may amend the order by substituting the other area for the area specified.

(3) The enforcement order may be amended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

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Amendment of hours specified under unpaid work requirement

6 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) If it appears to the court that, having regard to circumstances that have arisen since the enforcement order was made, it would be appropriate to do so, the court may reduce the number of hours specified in the order (but not below the minimum specified in section 199(2)(a) of the Criminal Justice Act 2003).

(3) In amending the enforcement order under sub-paragraph (2), the court must be satisfied that the effect on the person of the enforcement order as proposed to be amended is no more than is required to secure his compliance with the contact order or any contact order that has effect in its place.

(4) The enforcement order may be amended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Amendment to extend unpaid work requirement

7 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) If it appears to the court that, having regard to circumstances that have arisen since the enforcement order was made, it would be appropriate to do so, the court may, in relation to the order, extend the period of twelve months specified in section 200(2) of the Criminal Justice Act 2003 (as substituted by paragraph 3).

(3) The period may be extended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Warning and report following breach

8 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order.

(2) If the responsible officer is of the opinion that the person has failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order, the officer must give the person a warning under this paragraph unless—

(a) the person has within the previous twelve months been given a warning under this paragraph in relation to a failure to comply with the unpaid work requirement, or

(b) the responsible officer reports the failure to the appropriate person.

(3) A warning under this paragraph must—

(a) describe the circumstances of the failure,

(b) state that the failure is unacceptable, and

(c) inform the person that, if within the next twelve months he again fails to comply with the unpaid work requirement, the warning and the subsequent failure will be reported to the appropriate person.

(4) The responsible officer must, as soon as practicable after the warning has been given, record that fact.

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(5) If—

(a) the responsible officer has given a warning under this paragraph to a person subject to an enforcement order, and

(b) at any time within the twelve months beginning with the date on which the warning was given, the responsible officer is of the opinion that the person has since that date failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order,

the officer must report the failure to the appropriate person.

(6) A report under sub-paragraph (5) must include a report of the warning given to the person subject to the enforcement order.

(7) The appropriate person, in relation to an enforcement order, is the officer of the Service or the Welsh family proceedings officer who is required under section 11M to report on matters relating to the enforcement order.

(8) "Responsible officer", in relation to a person subject to an enforcement order, has the same meaning as in section 197 of the Criminal Justice Act 2003 (as modified by paragraph 2).

Breach of an enforcement order

9 (1) This paragraph applies where a court has made an enforcement order ("the first order") in respect of a person's failure to comply with a contact order.

(2) If the court is satisfied beyond reasonable doubt that the person has failed to comply with the unpaid work requirement imposed by the first order, the court may—

(a) amend the first order so as to make the requirement more onerous, or

(b) make an enforcement order ("the second order") in relation to the person and (if the first order is still in force) provide for the second order to have effect either in addition to or in substitution for the first order.

(3) But the court may not exercise its powers under sub-paragraph (2) if it is satisfied that the person had a reasonable excuse for failing to comply with the unpaid work requirement imposed by the first order.

(4) The burden of proof as to the matter mentioned in sub-paragraph (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.

(5) The court may exercise its powers under sub-paragraph (2) in relation to the first order only on the application of a person who would be able to apply under section 11J for an enforcement order if the failure to comply with the first order were a failure to comply with the contact order to which the first order relates.

(6) Where the person proposing to apply to the court is the child with respect to whom the contact order was made, subsections (6) and (7) of section 11J have effect in relation to the application as they have effect in relation to an application for an enforcement order.

(7) An application to the court to exercise its powers under sub-paragraph (2) may only be made while the first order is in force.

(8) The court may not exercise its powers under sub-paragraph (2) in respect of a failure by the person to comply with the unpaid work requirement imposed by the first order

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unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of, a notice under section 11N relating to the first order.

(9) In dealing with the person under sub-paragraph (2)(a), the court may—

(a) increase the number of hours specified in the first order (but not above the maximum specified in section 199(2)(b) of the Criminal Justice Act 2003, as substituted by paragraph 3);

(b) in relation to the order, extend the period of twelve months specified in section 200(2) of the Criminal Justice Act 2003 (as substituted by paragraph 3).

(10) In exercising its powers under sub-paragraph (2), the court must be satisfied that, taking into account the extent to which the person has complied with the unpaid work requirement imposed by the first order, the effect on the person of the proposed exercise of those powers—

(a) is no more than is required to secure his compliance with the contact order or any contact order that has effect in its place, and

(b) is no more than is proportionate to the seriousness of his failures to comply with the contact order and the first order.

(11) Where the court exercises its powers under sub-paragraph (2) by making an enforcement order in relation to a person who has failed to comply with another enforcement order—

(a) sections 11K(4), 11L(2) to (7), 11M and 11N have effect as regards the making of the order in relation to the person as they have effect as regards the making of an enforcement order in relation to a person who has failed to comply with a contact order;

(b) this Part of this Schedule has effect in relation to the order so made as if it were an enforcement order made in respect of the failure for which the other order was made.

(12) Sub-paragraph (2) is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to enforcement orders.

Provision relating to amendment of enforcement orders

10 Sections 11L(2) to (7) and 11M have effect in relation to the making of an order under paragraph 6(2), 7(2) or 9(2)(a) amending an enforcement order as they have effect in relation to the making of an enforcement order; and references in sections 11L(2) to (7) and 11M to an enforcement order are to be read accordingly.**]**

SCHEDULE 1

Section 15(1).

FINANCIAL PROVISION FOR CHILDREN

Orders for financial relief against parents

1 (1) On an application made by a parent **[**[F624], guardian or special guardian**]** of a child, or by any person in whose favour a residence order is in force with respect to a child, the court may—

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(a) in the case of an application to the High Court or a county court, make one or more of the orders mentioned in sub-paragraph (2);

(b) in the case of an application to a magistrates' court, make one or both of the orders mentioned in paragraphs (a) and (c) of that sub-paragraph.

(2) The orders referred to in sub-paragraph (1) are—

(a) an order requiring either or both parents of a child—

(i) to make to the applicant for the benefit of the child; or

(ii) to make to the child himself,

such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both parents of a child—

(i) to secure to the applicant for the benefit of the child; or

(ii) to secure to the child himself,

such periodical payments, for such term, as may be so specified;

(c) an order requiring either or both parents of a child—

(i) to pay to the applicant for the benefit of the child; or

(ii) to pay to the child himself,

such lump sum as may be so specified;

(d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property—

(i) to which either parent is entitled (either in possession or in reversion); and

(ii) which is specified in the order;

(e) an order requiring either or both parents of a child—

(i) to transfer to the applicant, for the benefit of the child; or

(ii) to transfer to the child himself,

such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.

(3) The powers conferred by this paragraph may be exercised at any time.

(4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(5) Where a court makes an order under this paragraph—

(a) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child concerned if he has not reached the age of eighteen;

(b) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.

(6) On making, varying or discharging a residence order **[**F625or a special guardianship order**]** the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.

[F626(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.**]**

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Annotations:

Amendments (Textual)

F624 Words in Sch. 1 para. 1(1) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(a)(i) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F625 Words in Sch. 1 para. 1(6) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(a)(ii) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F626 Sch. 1 para. 1(7) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 10(2)**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I94 Sch. 1 para. 1 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Orders for financial relief for persons over eighteen

2 (1) If, on an application by a person who has reached the age of eighteen, it appears to the court—

(a) that the applicant is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) that there are special circumstances which justify the making of an order under this paragraph,

the court may make one or both of the orders mentioned in sub-paragraph (2).

(2) The orders are—

(a) an order requiring either or both of the applicant's parents to pay to the applicant such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both of the applicant's parents to pay to the applicant such lump sum as may be so specified.

(3) An application may not be made under this paragraph by any person if, immediately before he reached the age of sixteen, a periodical payments order was in force with respect to him.

(4) No order shall be made under this paragraph at a time when the parents of the applicant are living with each other in the same household.

(5) An order under sub-paragraph (2)(a) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(6) In sub-paragraph (3) "periodical payments order" means an order made under—

(a) this Schedule;

F627(b) . . . . . .

(c) section 23 or 27 of the M59Matrimonial Causes Act 1973;

(d) Part I of the M60Domestic Proceedings and Magistrates' Courts Act 1978,

[F628(e) Part 1 or 9 of Schedule 5 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.);

(f) Schedule 6 to the 2004 Act (financial relief in the magistrates' courts etc.),]

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for the making or securing of periodical payments.

(7) The powers conferred by this paragraph shall be exercisable at any time.

(8) Where the court makes an order under this paragraph it may from time to time while that order remains in force make a further such order.

Annotations:

Amendments (Textual)

F627 Sch. 1 para. 2(6)(b) repealed (25.07.1991) by Child Support Act 1991 (c. 48, SIF 20), **s. 58(2)(14)** (with saving in s. 9(2)

F628 Sch. 1 para. 2(6)(e)(f) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 78(2)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Commencement Information

I95 Sch. 1 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M59 1973 c. 18.

M60 1978 c. 22.

Duration of orders for financial relief

3 (1) The term to be specified in an order for periodical payments made under paragraph 1(2)(a) or (b) in favour of a child may begin with the date of the making of an application for the order in question or any later date **[**F629or a date ascertained in accordance with sub-paragraph (5) or (6)**]** but—

(a) shall not in the first instance extend beyond the child's seventeenth birthday unless the court thinks it right in the circumstances of the case to specify a later date; and

(b) shall not in any event extend beyond the child's eighteenth birthday.

(2) Paragraph (b) of sub-paragraph (1) shall not apply in the case of a child if it appears to the court that—

(a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order without complying with that paragraph.

(3) An order for periodical payments made under paragraph 1(2)(a) or 2(2)(a) shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

(4) Where an order is made under paragraph 1(2)(a) or (b) requiring periodical payments to be made or secured to the parent of a child, the order shall cease to have effect if —

(a) any parent making or securing the payments; and

(b) any parent to whom the payments are made or secured,

live together for a period of more than six months.

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[F630(5) Where—

(a) a **[**F631maintenance calculation**]**("the **[**F632current caculation**]**") is in force with respect to a child; and

(b) an application is made for an order under paragraph 1(2)(a) or (b) of this Schedule for periodical payments in favour of that child—

(i) in accordance with section 8 of the Child Support Act 1991 M61; and

(ii) before the end of the period of 6 months beginning with the making of the **[**F632current calculation**]**,

the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.

(6) For the purposes of subsection (5) above, "the earliest permitted date" is whichever is the later of—

(a) the date 6 months before the application is made; or

(b) the date on which the **[**F632current calculation**]** took effect or, where successive **[**F633maintenance calculations**]** have been continuously in force with respect to a child, on which the first of **[**F634those calculations**]** took effect.

(7) Where—

(a) a **[**F631maintenance calculation**]** ceases to have effect **[**F635or is cancelled**]** by or under any provision of the Child Support Act 1991, and

(b) an application is made, before the end of the period of 6 months beginning with the relevant date, for an order for periodical payments under paragraph 1(2)(a) or (b) in favour of a child with respect to whom that **[**F631maintenance calculation**]** was in force immediately before it ceased to have effect **[**F636or was cancelled**]**,

the term to be specified in any such order, or in any interim order under paragraph 9, made on that application may begin with the date on which that **[**F631maintenance calculation**]** ceased to have effect **[**F637or, as the case may be, the date with effect from which it was cancelled**]**, or any later date.

(8) In sub-paragraph (7)(b)—

(a) where the **[**F631maintenance calculation**]** ceased to have effect, the relevant date is the date on which it so ceased; **[**F638and

(b) where the maintenance assessment was cancelled, the relevant date is the later of—

(i) the date on which the person who cancelled it did so, and

(ii) the date from which the cancellation first had effect.**]]**

Annotations:

Amendments (Textual)

F629 Words in Sch. 1 para. 3(1) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 10**

F630 Sch. 1 para. 3(5)-(8) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 11**

F631 Words in Sch. 1 para. 3(5)(a)(7)(8)(a) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(a) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

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F632 Words in Sch. 1 para. 3(5)(a)(b)(ii)(6)(b) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(b) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

F633 Words in Sch. 1 para. 3(6)(b) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(c) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

F634 Words in Sch. 1 para. 3(6)(b) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(d) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

F635 Words in Sch. 1 para. 3(7)(a) repealed 3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

F636 Words in Sch. 1 para. 3(7)(b) repealed (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

F637 Words in Sch. 1 para. 3(7) repealed (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **art. 3**, 8, Sch.

F638 Sch. 1 para. 3(8)(b) and the preceding "and" repealed (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

Commencement Information

I96 Sch. 1 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M61 1991 c.48.

Matters to which court is to have regard in making orders for financial relief

4 (1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including—

(a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(c) the financial needs of the child;

(d) the income, earning capacity (if any), property and other financial resources of the child;

(e) any physical or mental disability of the child;

(f) the manner in which the child was being, or was expected to be, educated or trained.

(2) In deciding whether to exercise its powers under paragraph 1 against a person who is not the mother or father of the child, and if so in what manner, the court shall in addition have regard to—

(a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;

(b) whether he did so knowing that the child was not his child;

(c) the liability of any other person to maintain the child.

(3) Where the court makes an order under paragraph 1 against a person who is not the father of the child, it shall record in the order that the order is made on the basis that the person against whom the order is made is not the child's father.

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(4) The persons mentioned in sub-paragraph (1) are—

(a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;

(b) in relation to a decision whether to exercise its powers under paragraph 2, the mother and father of the child;

(c) the applicant for the order;

(d) any other person in whose favour the court proposes to make the order.

[F639(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in sub-paragraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.**]**

Annotations:

Amendments (Textual)

F639 Sch. 1 para. 4(5) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 32(2)**; S.I. 2009/479, **art. 6(1)(e)**

Commencement Information

I97 Sch. 1 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provisions relating to lump sums

5 (1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses—

(a) incurred in connection with the birth of the child or in maintaining the child; and

(b) reasonably incurred before the making of the order,

to be met.

(2) The amount of any lump sum required to be paid by an order made by a magistrates' court under paragraph 1 or 2 shall not exceed £1000 or such larger amount as the **[**F640Lord Chancellor**]** may **[**F641, after consulting the Lord Chief Justice,**]** from time to time by order fix for the purposes of this sub-paragraph.

(3) The power of the court under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments by a parent shall include power to make an order under that provision for the payment of a lump sum by that parent.

(4) The amount of any lump sum which a parent may be required to pay by virtue of sub-paragraph (3) shall not, in the case of an order made by a magistrates' court, exceed the maximum amount that may at the time of the making of the order be required to be paid under sub-paragraph (2), but a magistrates' court may make an order for the payment of a lump sum not exceeding that amount even though the parent was required to pay a lump sum by a previous order under this Act.

(5) An order made under paragraph 1 or 2 for the payment of a lump sum may provide for the payment of that sum by instalments.

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(6) Where the court provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying—

(a) the number of instalments payable;

(b) the amount of any instalment payable;

(c) the date on which any instalment becomes payable.

[F642(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.**]**

Annotations:

Amendments (Textual)

F640 Words in Sch. 1 para. 5(2) substituted (1.4.1992) by S.I. 1992/709, art. 3(2), **Sch.2** (with art. 5(2)).

F641 Words in Sch. 1 para. 5(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 209(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F642 Sch. 1 para. 5(7) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 209(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Modifications etc. (not altering text)

C68 Sch. 1 para. 5(2): functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 3(1), **Sch. 2** (with art. 5(2)).

Commencement Information

I98 Sch. 1 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Variation etc. of orders for periodical payments

6 (1) In exercising its powers under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.

(2) The power of the court under paragraph 1 or 2 to vary an order for the making or securing of periodical payments shall include power to suspend any provision of the order temporarily and to revive any provision so suspended.

(3) Where on an application under paragraph 1 or 2 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court may specify, **[**F643except that, subject to sub-paragraph (9), the date shall not be**]** earlier than the date of the making of the application.

(4) An application for the variation of an order made under paragraph 1 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of sixteen, be made by the child himself.

(5) Where an order for the making or securing of periodical payments made under paragraph 1 ceases to have effect on the date on which the child reaches the age of sixteen, or at any time after that date but before or on the date on which he reaches

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the age of eighteen, the child may apply to the court which made the order for an order for its revival.

(6) If on such an application it appears to the court that—

(a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order under this paragraph,

the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(7) Any order which is revived by an order under sub-paragraph (5) may be varied or discharged under that provision, on the application of any person by whom or to whom payments are required to be made under the revived order.

(8) An order for the making or securing of periodical payments made under paragraph 1 may be varied or discharged, after the death of either parent, on the application of a guardian or **[**F644 special guardian **]**of the child concerned.

[F645(9) Where—

(a) an order under paragraph 1(2)(a) or (b) for the making or securing of periodical payments in favour of more than one child ("the order") is in force;

(b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them;

(c) a **[**F646maintenance calculation**]** (" **[**F647the calculation**]**") is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made; and

(d) an application is made, before the end of the period of 6 months beginning with the date on which **[**F647the calculation**]** was made, for the variation or discharge of the order,

the court may, in exercise of its powers under paragraph 1 to vary or discharge the order, direct that the variation or discharge shall take effect from the date on which **[**F647the calculation**]** took effect or any later date.**]**

Annotations:

Amendments (Textual)

F643 Words in Sch. 1 para. 6(3) substituted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 12**

F644 Words in Sch. 1 para. 6(8) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F645 Sch. 1 para. 6(9) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 13**

F646 Words in Sch. 1 para. 6(9)(c) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(3)(b) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

F647 Words in Sch. 1 para. 6(9) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(3)(a) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

Commencement Information

I99 Sch. 1 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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[F648 Variation of orders for periodical payments etc. made by magistrates' courts

Annotations:

Amendments (Textual)

F648 Sch. 1 para. 6A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 6**; S.I. 1992/455, **art. 2**

F649 6A (1) Subject to sub-paragraphs (7) and (8), the power of a magistrates' court—

(a) under paragraph 1 or 2 to vary an order for the making of periodical payments, or

(b) under paragraph 5(6) to vary an order for the payment of a lump sum by instalments,

shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Courts Act 1980.

(2) In any case where—

(a) a magistrates' court has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments, and

(b) payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.),

any person entitled to make an application under this Schedule for the variation of the order (in this paragraph referred to as "the applicant") may apply to **[**F650 a magistrates' court acting in the same local justice area as the court which made the order**]** for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), **[**F651 a justices' clerk**]** , after giving written notice (by post or otherwise) of the application to any interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made **[**F652 **[**F653 to the designated officer for the court**]]**.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if he considers it inappropriate to exercise his power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the M62 Magistrates' Courts Act 1980.

(6) Subsection (4) of section 59 of the Magistrates' Courts Act 1980 (power of court to order that account be opened) shall apply for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that section.

(7) Before varying the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Courts Act 1980, the court shall have regard to any representations made by the parties to the application.

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(8) If the court does not propose to exercise its power **[**F654under paragraph (c), (cc) or (d)**]** of subsection (3) of section 59 of the Magistrates' Courts Act 1980, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.

(9) None of the powers of the court, or of **[**F655a justices' clerk**]** , conferred by this paragraph shall be exercisable in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of section 59 of the Magistrates' Courts Act 1980).

(10) In sub-paragraphs (3) and (4) "interested party", in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made.**]**

Annotations:

Amendments (Textual)

F649 Sch. 1 para. 6A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 6**; S.I. 1992/455, **art. 2**.

F650 Words in Sch. 1 para. 6A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39) , s. 109(1), {Sch. 8 para. 338(2)}; S.I. 2005/910, **art. 3(y)**

F651 Words in Sch. 1 para. 6A(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 338(3)(a)**; S.I. 2005/910, **art. 3(y)**

F652 Words in Sch. 1 para. 6A(3) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 161** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

F653 Words in Sch. 1 para. 6A(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 338(3)(b)**; S.I. 2005/910, **art. 3(y)**

F654 Words in sub-para. (8) of para. 6A of Sch. 1 substituted (11.4.1994) by S.I. 1994/731, **art. 4**

F655 Words in Sch. 1 para. 6A(9) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 338(4)**; S.I. 2005/910, **art. 3(y)**

Marginal Citations

M62 1980 c. 43.

Variation of orders for secured periodical payments after death of parent

7 (1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the deceased parent.

(2) No application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.

(3) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility

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that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.

(4) Sub-paragraph (3) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.

(5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 6(1) shall include the changed circumstances resulting from the death of the parent.

(6) In considering for the purposes of sub-paragraph (2) the question when representation was first taken out, a grant limited to settled land or to trust property shall be left out of account and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(7) In this paragraph "secured periodical payments order" means an order for secured periodical payments under paragraph 1(2)(b).

Annotations:

Commencement Information

I100 Sch. 1 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Financial relief under other enactments

8 (1) This paragraph applies where a residence order **[**F656or a special guardianship order**]** is made with respect to a child at a time when there is in force an order ("the financial relief order") made under any enactment other than this Act and requiring a person to contribute to the child's maintenance.

(2) Where this paragraph applies, the court may, on the application of—

(a) any person required by the financial relief order to contribute to the child's maintenance; or

(b) any person in whose favour a residence order **[**F656or a special guardianship order**]** with respect to the child is in force,

make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is otherwise payable under that order.

Annotations:

Amendments (Textual)

F656 Words in Sch. 1 para. 8(1)(2)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

I101 Sch. 1 para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Interim orders

9 (1) Where an application is made under paragraph 1 or 2 the court may, at any time before it disposes of the application, make an interim order—

(a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit; and

(b) giving any direction which the court thinks fit.

(2) An interim order made under this paragraph may provide for payments to be made from such date as the court may specify **[**F657except that, subject to paragraph 3(5) and (6), the date shall not be**]** earlier than the date of the making of the application under paragraph 1 or 2.

(3) An interim order made under this paragraph shall cease to have effect when the application is disposed of or, if earlier, on the date specified for the purposes of this paragraph in the interim order.

(4) An interim order in which a date has been specified for the purposes of sub-paragraph (3) may be varied by substituting a later date.

Annotations:

Amendments (Textual)

F657 Words in Sch. 1 para. 9(2) substituted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para.14**

Commencement Information

I102 Sch. 1 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Alteration of maintenance agreements

10 (1) In this paragraph and in paragraph 11 "maintenance agreement" means any agreement in writing made with respect to a child, whether before or after the commencement of this paragraph, which—

(a) is or was made between the father and mother of the child; and

(b) contains provision with respect to the making or securing of payments, or the disposition or use of any property, for the maintenance or education of the child,

and any such provisions are in this paragraph, and paragraph 11, referred to as "financial arrangements".

(2) Where a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in England and Wales, then, either party may apply to the court for an order under this paragraph.

(3) If the court to which the application is made is satisfied either—

(a) that, by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different financial arrangements; or

(b) that the agreement does not contain proper financial arrangements with respect to the child,

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then that court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to it to be just having regard to all the circumstances.

(4) If the maintenance agreement is altered by an order under this paragraph, the agreement shall have effect thereafter as if the alteration had been made by agreement between the parties and for valuable consideration.

(5) Where a court decides to make an order under this paragraph altering the maintenance agreement—

(a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or

(b) by increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

then, in deciding the term for which under the agreement as altered by the order the payments or (as the case may be) the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court shall apply the provisions of sub-paragraphs (1) and (2) of paragraph 3 as if the order were an order under paragraph 1(2)(a) or (b).

(6) A magistrates' court shall not entertain an application under sub-paragraph (2) unless both the parties to the agreement are resident in England and Wales and **[**F658the court acts in, or is authorised by the Lord Chancellor to act for, a local justice area in which at least one of the parties is resident**]** , and shall not have power to make any order on such an application except—

(a) in a case where the agreement contains no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of the child;

(b) in a case where the agreement includes provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

(7) For the avoidance of doubt it is hereby declared that nothing in this paragraph affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

[F659(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in sub-paragraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.**]**

Annotations:

Amendments (Textual)

F658 Words in Sch. 1 para. 10(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 339**; S.I. 2005/910, **art. 3(y)**

F659 Sch. 1 para. 10(8) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 32(3)**; S.I. 2009/479, **art. 6(1)(e)**

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Commencement Information

I103 Sch. 1 para 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

11 (1) Where a maintenance agreement provides for the continuation, after the death of one of the parties, of payments for the maintenance of a child and that party dies domiciled in England and Wales, the surviving party or the personal representatives of the deceased party may apply to the High Court or a county court for an order under paragraph 10.

(2) If a maintenance agreement is altered by a court on an application under this paragraph, the agreement shall have effect thereafter as if the alteration had been made, immediately before the death, by agreement between the parties and for valuable consideration.

(3) An application under this paragraph shall not, except with leave of the High Court or a county court, be made after the end of the period of six months beginning with the day on which representation in regard to the estate of the deceased is first taken out.

(4) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out, a grant limited to settled land or to trust property shall be left out of account and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(5) A county court shall not entertain an application under this paragraph, or an application for leave to make an application under this paragraph, unless it would have jurisdiction to hear and determine proceedings for an order under section 2 of the [M63]Inheritance (Provision for Family and Dependants) Act 1975 in relation to the deceased's estate by virtue of section 25 of the [M64]County Courts Act 1984 (jurisdiction under the Act of 1975).

(6) The provisions of this paragraph shall not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiry of the period of six months referred to in sub-paragraph (3) on the ground that they ought to have taken into account the possibility that a court might grant leave for an application by virtue of this paragraph to be made by the surviving party after that period.

(7) Sub-paragraph (6) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.

Annotations:

Commencement Information

I104 Sch. 1 para 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M63 1975 c. 63.

M64 1984 c. 28.

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Enforcement of orders for maintenance

12 (1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made by a magistrates' court under this Act shall give notice of any change of address to such person (if any) as may be specified in the order.

(2) Any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) An order for the payment of money made by a magistrates' court under this Act shall be enforceable as a magistrates' court maintenance order within the meaning of section 150(1) of the [M65]Magistrates' Courts Act 1980.

Annotations:

Commencement Information
I105 Sch. 1 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M65 1980 c. 43.

Direction for settlement of instrument by conveyancing counsel

13 Where the High Court or a county court decides to make an order under this Act for the securing of periodical payments or for the transfer or settlement of property, it may direct that the matter be referred to one of the conveyancing counsel of the court to settle a proper instrument to be executed by all necessary parties.

Annotations:

Commencement Information
I106 Sch. 1 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Financial provision for child resident in country outside England and Wales

14 (1) Where one parent of a child lives in England and Wales and the child lives outside England and Wales with—

(a) another parent of his;

(b) a guardian **[**[F660]or special guardian**]** of his; or

(c) a person in whose favour a residence order is in force with respect to the child,

the court shall have power, on an application made by any of the persons mentioned in paragraphs (a) to (c), to make one or both of the orders mentioned in paragraph 1(2)(a) and (b) against the parent living in England and Wales.

(2) Any reference in this Act to the powers of the court under paragraph 1(2) or to an order made under paragraph 1(2) shall include a reference to the powers which the court has by virtue of sub-paragraph (1) or (as the case may be) to an order made by virtue of sub-paragraph (1).

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Annotations:

Amendments (Textual)

F660 Words in Sch. 1 para. 14(1)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(d) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

I107 Sch. 1 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Local authority contribution to child's maintenance

15 (1) Where a child lives, or is to live, with a person as the result of a residence order, a local authority may make contributions to that person towards the cost of the accommodation and maintenance of the child.

(2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife **[**F661or civil partner**]** of a parent of the child.

Annotations:

Amendments (Textual)

F661 Words in Sch. 1 para. 15(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 78(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Commencement Information

I108 Sch. 1 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Interpretation

16 (1) In this Schedule "child" includes, in any case where an application is made under paragraph 2 or 6 in relation to a person who has reached the age of eighteen, that person.

[F662(2) In this Schedule, except paragraphs 2 and 15, "parent" includes—

(a) any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family, and

(b) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child concerned is a child of the family;

and for this purpose any reference to either parent or both parents shall be read as a reference to any parent of his and to all of his parents.**]**

[F663(3) In this Schedule, " **[**F664maintenance calculation**]**" has the same meaning as it has in the Child Support Act 1991 by virtue of section 54 of that Act as read with any regulations in force under that section.**]**

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Annotations:

Amendments (Textual)

F662 Sch. 1 para. 16(2) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 78(4)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F663 Sch. 1 para. 16(3) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 15**

F664 Words in Sch. 1 para. 16(3) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(4) (with s. 83(6)); S.I. 2003/192, **arts. 3**, 8, Sch.

Commencement Information

I109 Sch. 1 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 2

Sections 17, 23 and 29.

Local Authority Support for Children and Families

Annotations:

Modifications etc. (not altering text)

C69 Sch. 2 modified (temp.) (12.2.2009 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), ss. 8(3), 44, **Sch. 2 para. 2**; S.I. 2009/268, **art. 3(1)(b)**

Commencement Information

I110 Sch. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PART I

Provision of Services for Families

Annotations:

Commencement Information

I111 Sch. 2 Part I wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Identification of children in need and provision of information

1 (1) Every local authority shall take reasonable steps to identify the extent to which there are children in need within their area.

(2) Every local authority shall—

(a) publish information—

(i) about services provided by them under sections 17, 18, **[**[F665]20, 23B to 23D, 24A and 24B**]**; and

(ii) where they consider it appropriate, about the provision by others (including, in particular, voluntary organisations) of services which the authority have power to provide under those sections; and

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(b) take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them.

Annotations:

Amendments (Textual)

F665 Words in Sch. 2 Pt. I para. 1(2)(a)(i) substituted (1.10.2001) by 2000 c. 35, **s. 7(4)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

Commencement Information

I112 Sch. 2 Pt. I para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F666 Children's services plans

Annotations:

Amendments (Textual)

F666 Sch. 2 para. 1A and cross heading inserted (1.4.1996) by S.I. 1996/785, **art. 2**

1A F667 . . . . . .]

Annotations:

Amendments (Textual)

F667 Sch. 2 para. 1A repealed (1.3.2005 for E. and 31.7.2008 for W.) by Children Act 2004 (c. 31), s. 64, **Sch. 5 Pt. 1**; S.I. 2005/394, **art. 2(1)(l)**; S.I. 2008/1904, **art. 2(b)**

Maintenance of a register of disabled children

2 (1) Every local authority shall open and maintain a register of disabled children within their area.

(2) The register may be kept by means of a computer.

Annotations:

Commencement Information

I113 Sch. 2 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Assessment of children's needs

3 Where it appears to a local authority that a child within their area is in need, the authority may assess his needs for the purposes of this Act at the same time as any assessment of his needs is made under—

(a) the M66 Chronically Sick and Disabled Persons Act 1970;

(b) **[**F668 Part IV of the Education Act 1996**]**;

(c) the M67 Disabled Persons (Services, Consultation and Representation) Act 1986; or

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(d) any other enactment.

Annotations:

Amendments (Textual)
F668 Words in Sch. 2 para. 3(b) substituted (1.11.1996) by 1996 c. 56, ss. 1(4), 582(1), 583(2), **Sch. 37**, para. 92

Commencement Information
I114 Sch. 2 Pt. I para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M66 1970 c. 44.
M67 1986 c. 33.

Prevention of neglect and abuse

4 (1) Every local authority shall take reasonable steps, through the provision of services under Part III of this Act, to prevent children within their area suffering ill-treatment or neglect.

(2) Where a local authority believe that a child who is at any time within their area—
(a) is likely to suffer harm; but
(b) lives or proposes to live in the area of another local authority
they shall inform that other local authority.

(3) When informing that other local authority they shall specify—
(a) the harm that they believe he is likely to suffer; and
(b) (if they can) where the child lives or proposes to live.

Annotations:

Commencement Information
I115 Sch. 2 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provision of accommodation in order to protect child

5 (1) Where—
(a) it appears to a local authority that a child who is living on particular premises is suffering, or is likely to suffer, ill treatment at the hands of another person who is living on those premises; and
(b) that other person proposes to move from the premises,
the authority may assist that other person to obtain alternative accommodation.

(2) Assistance given under this paragraph may be in cash.

(3) Subsections (7) to (9) of section 17 shall apply in relation to assistance given under this paragraph as they apply in relation to assistance given under that section.

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Annotations:

Commencement Information

I116 Sch. 2 Pt. I para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provision for disabled children

6 Every local authority shall provide services designed—

(a) to minimise the effect on disabled children within their area of their disabilities; and

(b) to give such children the opportunity to lead lives which are as normal as possible.

[F669(2) The duty imposed by sub-paragraph (1)(c) shall be performed in accordance with regulations made by the appropriate national authority.**]**

Annotations:

Amendments (Textual)

F669 Sch. 2 para. 6(2) inserted (1.9.2009 for E. for certain purposes and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 25(4)**, 44; S.I. 2009/2273, **art. 2(2)(h)**

Commencement Information

I117 Sch. 2 Pt. I para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provision to reduce need for care proceedings etc.

7 Every local authority shall take reasonable steps designed—

(a) to reduce the need to bring—

(i) proceedings for care or supervision orders with respect to children within their area;

(ii) criminal proceedings against such children;

(iii) any family or other proceedings with respect to such children which might lead to them being placed in the authority's care; or

(iv) proceedings under the inherent jurisdiction of the High Court with respect to children;

(b) to encourage children within their area not to commit criminal offences; and

(c) to avoid the need for children within their area to be placed in secure accommodation.

Annotations:

Commencement Information

I118 Sch. 2 Pt. I para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Provision for children living with their families

8 Every local authority shall make such provision as they consider appropriate for the following services to be available with respect to children in need within their area while they are living with their families—

(a) advice, guidance and counselling;

(b) occupational, social, cultural or recreational activities;

(c) home help (which may include laundry facilities);

(d) facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under this Act or of any similar service;

(e) assistance to enable the child concerned and his family to have a holiday.

Annotations:

Commencement Information

I119 Sch. 2 Pt. I para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PROSPECTIVE

[[F670]Provision for accommodated children

Annotations:

Amendments (Textual)

F670 Sch. 2 para. 8A inserted (prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 19**, 44

8A (1) Every local authority shall make provision for such services as they consider appropriate to be available with respect to accommodated children.

(2) "Accommodated children" are those children in respect of whose accommodation the local authority have been notified under section 85 or 86.

(3) The services shall be provided with a view to promoting contact between each accommodated child and that child's family.

(4) The services may, in particular, include—

(a) advice, guidance and counselling;

(b) services necessary to enable the child to visit, or to be visited by, members of the family;

(c) assistance to enable the child and members of the family to have a holiday together.

(5) Nothing in this paragraph affects the duty imposed by paragraph 10.**]**

Family centres

9 (1) Every local authority shall provide such family centres as they consider appropriate in relation to children within their area.

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(2) "Family centre" means a centre at which any of the persons mentioned in sub-paragraph (3) may—

(a) attend for occupational, social, cultural or recreational activities;

(b) attend for advice, guidance or counselling; or

(c) be provided with accommodation while he is receiving advice, guidance or counselling.

(3) The persons are—

(a) a child;

(b) his parents;

(c) any person who is not a parent of his but who has parental responsibility for him;

(d) any other person who is looking after him.

Annotations:

Commencement Information

I120 Sch. 2 Pt. I para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Maintenance of the family home

10 Every local authority shall take such steps as are reasonably practicable, where any child within their area who is in need and whom they are not looking after is living apart from his family—

(a) to enable him to live with his family; or

(b) to promote contact between him and his family,

if, in their opinion, it is necessary to do so in order to safeguard or promote his welfare.

Annotations:

Commencement Information

I121 Sch. 2 Pt. I para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Duty to consider racial groups to which children in need belong

11 Every local authority shall, in making any arrangements—

(a) for the provision of day care within their area; or

(b) designed to encourage persons to act as local authority foster parents,

have regard to the different racial groups to which children within their area who are in need belong.

Annotations:

Commencement Information

I122 Sch. 2 Pt. I para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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PART II

CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES

Regulations as to placing of children with local authority foster parents

. . . . . .

Regulations as to arrangements under section 23(2)(f)

. . . . . .

Regulations as to conditions under which child in care is allowed to live with parent, etc.

. . . . . .

[[F675]Regulations as to conditions under which child in care is allowed to live with parent, etc

Annotations:

Amendments (Textual)

F675 Sch. 2 paras. 12A-12G substituted (1.9.2009 for E. and otherwise prosp.) for Sch. 2 paras. 12-14 by Children and Young Persons Act 2008 (c. 23), ss. 8(2), 44, **Sch. 1 para. 4**; S.I. 2009/2273, **art. 2(2)(b)**

12A Regulations under section 22C may, in particular, impose requirements on a local authority as to—

(a) the making of any decision by a local authority to allow a child in their care to live with any person falling within section 22C(3) (including requirements as to those who must be consulted before the decision is made and those who must be notified when it has been made);

(b) the supervision or medical examination of the child concerned;

(c) the removal of the child, in such circumstances as may be prescribed, from the care of the person with whom the child has been allowed to live;

(d) the records to be kept by local authorities.

Regulations as to placements of a kind specified in section 22C(6)(d)

12B Regulations under section 22C as to placements of the kind specified in section 22C(6)(d) may, in particular, make provision as to—

(a) the persons to be notified of any proposed arrangements;

(b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;

(c) the persons to be notified of any proposed changes in arrangements;

(d) the records to be kept by local authorities;

(e) the supervision by local authorities of any arrangements made.

Placements out of area

12C Regulations under section 22C may, in particular, impose requirements which a local authority must comply with—

(a) before a child looked after by them is provided with accommodation at a place outside the area of the authority; or

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(b) if the child's welfare requires the immediate provision of such accommodation, within such period of the accommodation being provided as may be prescribed.

Avoidance of disruption in education

12D (1) Regulations under section 22C may, in particular, impose requirements which a local authority must comply with before making any decision concerning a child's placement if he is in the fourth key stage.

(2) A child is "in the fourth key stage" if he is a pupil in the fourth key stage for the purposes of Part 6 or 7 of the Education 2002 (see section 82 and 103 of that Act).

Regulations as to placing of children with local authority foster parents

12E Regulations under section 22C may, in particular, make provision—

(a) with regard to the welfare of children placed with local authority foster parents;

(b) as to the arrangements to be made by local authorities in connection with the health and education of such children;

(c) as to the records to be kept by local authorities;

(d) for securing that where possible the local authority foster parent with whom a child is to be placed is—

(i) of the same religious persuasion as the child; or

(ii) gives an undertaking that the child will be brought up in that religious persuasion;

(e) for securing the children placed with local authority foster parents, and the premises in which they are accommodated, will be supervised and inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it.

12F (1) Regulations under section 22C 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;

(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;

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(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.

12G Regulations under section 22C 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.**]**

Promotion and maintenance of contact between child and family

15 (1) Where a child is being looked after by a local authority, the authority shall, unless it is not reasonably practicable or consistent with his welfare, endeavour to promote contact between the child and—

(a) his parents;

(b) any person who is not a parent of his but who has parental responsibility for him; and

(c) any relative, friend or other person connected with him.

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(2) Where a child is being looked after by a local authority—

(a) the authority shall take such steps as are reasonably practicable to secure that—

(i) his parents; and

(ii) any person who is not a parent of his but who has parental responsibility for him,

are kept informed of where he is being accommodated; and

(b) every such person shall secure that the authority are kept informed of his or her address.

(3) Where a local authority ("the receiving authority") take over the provision of accommodation for a child from another local authority ("the transferring authority") under section 20(2)—

(a) the receiving authority shall (where reasonably practicable) inform—

(i) the child's parents; and

(ii) any person who is not a parent of his but who has parental responsibility for him;

(b) sub-paragraph (2)(a) shall apply to the transferring authority, as well as the receiving authority, until at least one such person has been informed of the change; and

(c) sub-paragraph (2)(b) shall not require any person to inform the receiving authority of his address until he has been so informed.

(4) Nothing in this paragraph requires a local authority to inform any person of the whereabouts of a child if—

(a) the child is in the care of the authority; and

(b) the authority has reasonable cause to believe that informing the person would prejudice the child's welfare.

(5) Any person who fails (without reasonable excuse) to comply with sub-paragraph (2)(b) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) It shall be a defence in any proceedings under sub-paragraph (5) to prove that the defendant was residing at the same address as another person who was the child's parent or had parental responsibility for the child and had reasonable cause to believe that the other person had informed the appropriate authority that both of them were residing at that address.

Annotations:

Modifications etc. (not altering text)

C71 Sch. 2 para. 15: power to apply with modifications or exclude conferred (7.2.2004 (W.) and 7.12.2004 (E.)) by 2002 c. 38, ss. 53(1)(2), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/3203, **art. 2(1)(h)**; S.I. 2004/252, **art. 2**

C72 Sch. 2 para. 15 excluded (30.12.2005) by: The Adoption Agencies Regulations 2005 (S.I. 2005/389), **reg. 45(2)(d)**; The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **reg. 46(2)(d)**

Commencement Information

I126 Sch. 2 Pt. II para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Visits to or by children: expenses

16 (1) This paragraph applies where—

(a) a child is being looked after by a local authority; and

(b) the conditions mentioned in sub-paragraph (3) are satisfied.

(2) The authority may—

(a) make payments to—

(i) a parent of the child;

(ii) any person who is not a parent of his but who has parental responsibility for him; or

(iii) any relative, friend or other person connected with him,

in respect of travelling, subsistence or other expenses incurred by that person in visiting the child; or

(b) make payments to the child, or to any person on his behalf, in respect of travelling, subsistence or other expenses incurred by or on behalf of the child in his visiting—

(i) a parent of his;

(ii) any person who is not a parent of his but who has parental responsibility for him; or

(iii) any relative, friend or other person connected with him.

(3) The conditions are that—

(a) it appears to the authority that the visit in question could not otherwise be made without undue financial hardship; and

(b) the circumstances warrant the making of the payments.

Annotations:

Commencement Information

I127 Sch. 2 Pt. II para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Appointment of visitor for child who is not being visited

17 (1) Where it appears to a local authority in relation to any child that they are looking after that—

(a) communication between the child and—

(i) a parent of his, or

(ii) any person who is not a parent of his but who has parental responsibility for him,

has been infrequent; or

(b) he has not visited or been visited by (or lived with) any such person during the preceding twelve months,

and that it would be in the child's best interests for an independent person to be appointed to be his visitor for the purposes of this paragraph, they shall appoint such a visitor.

(2) A person so appointed shall—

(a) have the duty of visiting, advising and befriending the child; and

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(b) be entitled to recover from the authority who appointed him any reasonable expenses incurred by him for the purposes of his functions under this paragraph.

(3) A person's appointment as a visitor in pursuance of this paragraph shall be determined if—

(a) he gives notice in writing to the authority who appointed him that he resigns the appointment; or

(b) the authority give him notice in writing that they have terminated it.

(4) The determination of such an appointment shall not prejudice any duty under this paragraph to make a further appointment.

(5) Where a local authority propose to appoint a visitor for a child under this paragraph, the appointment shall not be made if—

(a) the child objects to it; and

(b) the authority are satisfied that he has sufficient understanding to make an informed decision.

(6) Where a visitor has been appointed for a child under this paragraph, the local authority shall determine the appointment if—

(a) the child objects to its continuing; and

(b) the authority are satisfied that he has sufficient understanding to make an informed decision.

(7) The **[**F676"appropriate national authority**]** may make regulations as to the circumstances in which a person appointed as a visitor under this paragraph is to be regarded as independent of the local authority appointing him.

Annotations:

Amendments (Textual)

F676 Words in Sch. 2 para. 17(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 27(2)**

Commencement Information

I128 Sch. 2 Pt. II para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Power to guarantee apprenticeship deeds etc.

18 (1) While a child is being looked after by a local authority, or is a person qualifying for advice and assistance, the authority may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship which he enters into.

(2) Where a local authority have undertaken any such obligation under any deed or articles they may at any time (whether or not they are still looking after the person concerned) undertake the like obligation under any supplemental deed or articles.

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Annotations:

Commencement Information

I129 Sch. 2 Pt. II para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Arrangements to assist children to live abroad

19 (1) A local authority may only arrange for, or assist in arranging for, any child in their care to live outside England and Wales with the approval of the court.

(2) A local authority may, with the approval of every person who has parental responsibility for the child arrange for, or assist in arranging for, any other child looked after by them to live outside England and Wales.

(3) The court shall not give its approval under sub-paragraph (1) unless it is satisfied that—

(a) living outside England and Wales would be in the child's best interests;

(b) suitable arrangements have been, or will be, made for his reception and welfare in the country in which he will live;

(c) the child has consented to living in that country; and

(d) every person who has parental responsibility for the child has consented to his living in that country.

(4) Where the court is satisfied that the child does not have sufficient understanding to give or withhold his consent, it may disregard sub-paragraph (3)(c) and give its approval if the child is to live in the country concerned with a parent, guardian, **[**F677special guardian,**]** or other suitable person.

(5) Where a person whose consent is required by sub-paragraph (3)(d) fails to give his consent, the court may disregard that provision and give its approval if it is satisfied that that person—

(a) cannot be found;

(b) is incapable of consenting; or

(c) is withholding his consent unreasonably.

(6) **[**F678Section 85 of the Adoption and Children Act 2002 (which imposes restrictions on taking children out of the United Kingdom)**]** shall not apply in the case of any child who is to live outside England and Wales with the approval of the court given under this paragraph.

(7) Where a court decides to give its approval under this paragraph it may order that its decision is not to have effect during the appeal period.

(8) In sub-paragraph (7) "the appeal period" means—

(a) where an appeal is made against the decision, the period between the making of the decision and the determination of the appeal; and

(b) otherwise, the period during which an appeal may be made against the decision.

[F679(9) This paragraph does not apply to a local authority placing a child for adoption with prospective adopters.**]**

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Annotations:

Amendments (Textual)

F677 Words in Sch. 2 para. 19(4) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F678 Words in Sch. 2 para. 19(6) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72 (b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F679 Sch. 2 para. 19(9) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

I130 Sch. 2 Pt. II para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[F680 Preparation for ceasing to be looked after

Annotations:

Amendments (Textual)

F680 Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, **s. 1**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F681 19A It is the duty of the local authority looking after a child to advise, assist and befriend him with a view to promoting his welfare when they have ceased to look after him.

Annotations:

Amendments (Textual)

F681 Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, **s. 1**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F682 19B (1) A local authority shall have the following additional functions in relation to an eligible child whom they are looking after.

(2) In sub-paragraph (1) "eligible child" means, subject to sub-paragraph (3), a child who—

(a) is aged sixteen or seventeen; and

(b) has been looked after by a local authority for a prescribed period, or periods amounting in all to a prescribed period, which began after he reached a prescribed age and ended after he reached the age of sixteen.

(3) The **[**F683appropriate national authority**]** may prescribe—

(a) additional categories of eligible children; and

(b) categories of children who are not to be eligible children despite falling within sub-paragraph (2).

(4) For each eligible child, the local authority shall carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Act—

(a) while they are still looking after him; and

(b) after they cease to look after him,

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and shall then prepare a pathway plan for him.

(5) The local authority shall keep the pathway plan under regular review.

(6) Any such review may be carried out at the same time as a review of the child's case carried out by virtue of section 26.

(7) The **[**[F684]appropriate national authority**]** may by regulations make provision as to assessments for the purposes of sub-paragraph (4).

(8) The regulations may in particular provide for the matters set out in section 23B(6).

Annotations:

Amendments (Textual)

F682 Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, **s. 1**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

F683 Words in Sch. 2 para. 19B(3) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 27(3)**

F684 Words in Sch. 2 para. 19B(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 27(3)**

Modifications etc. (not altering text)

C73 Sch. 2 pt. II para. 19B(2) restricted (W.) (1.10.2001) by S.I. 2001/2189, **reg. 3(2)**

[F685]19C A local authority shall arrange for each child whom they are looking after who is an eligible child for the purposes of paragraph 19B to have a personal adviser.**]**

Annotations:

Amendments (Textual)

F685 Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, **s. 1**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

Death of children being looked after by local authorities

20 (1) If a child who is being looked after by a local authority dies, the authority—

(a) shall notify the **[**[F686]appropriate national authority**][**[F687]and (in the case of a local authority in England) Her Majesty's Chief Inspector of Education, Children's Services and Skills**]** ;

(b) shall, so far as is reasonably practicable, notify the child's parents and every person who is not a parent of his but who has parental responsibility for him;

(c) may, with the consent (so far as it is reasonably practicable to obtain it) of every person who has parental responsibility for the child, arrange for the child's body to be buried or cremated; and

(d) may, if the conditions mentioned in sub-paragraph (2) are satisfied, make payments to any person who has parental responsibility for the child, or any relative, friend or other person connected with the child, in respect of travelling, subsistence or other expenses incurred by that person in attending the child's funeral.

(2) The conditions are that—

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(a) it appears to the authority that the person concerned could not otherwise attend the child's funeral without undue financial hardship; and

(b) that the circumstances warrant the making of the payments.

(3) Sub-paragraph (1) does not authorise cremation where it does not accord with the practice of the child's religious persuasion.

(4) Where a local authority have exercised their power under sub-paragraph (1)(c) with respect to a child who was under sixteen when he died, they may recover from any parent of the child any expenses incurred by them.

(5) Any sums so recoverable shall, without prejudice to any other method of recovery, be recoverable summarily as a civil debt.

(6) Nothing in this paragraph affects any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

Annotations:

Amendments (Textual)

F686 Words in Sch. 2 para. 20(1)(a) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 27(4)**

F687 Words in Sch. 2 para. 20(1)(a) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 175, 188, **Sch. 14 para. 17**; S.I. 2007/935; **art. 5(gg)**

Commencement Information

I131 Sch. 2 Pt. II para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PART III

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES

Annotations:

Modifications etc. (not altering text)

C74 Sch. 2 Pt. III modified (30.12.2005) by 2002 c. 38, **ss. 53(4)-(6)**, 148 (with Sch. 4 paras. 1, 6-8); S.I 2005/2213, {art. 2(c)}

Liability to contribute

21 (1) Where a local authority are looking after a child (other than in the cases mentioned in sub-paragraph (7)) they shall consider whether they should recover contributions towards the child's maintenance from any person liable to contribute ("a contributor").

(2) An authority may only recover contributions from a contributor if they consider it reasonable to do so.

(3) The persons liable to contribute are—

(a) where the child is under sixteen, each of his parents;

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(b) where he has reached the age of sixteen, the child himself.

(4) A parent is not liable to contribute during any period when he is in receipt of income support **[**F688under**][**F689Part VII of the Social Security Contributions and Benefits Act 1992**][**F690, of any element of child tax credit other than the family element, of working tax credit**][**F691**[**F692, of an income-based jobseeker's allowance or of an income-related employment and support allowance**]]**.

(5) A person is not liable to contribute towards the maintenance of a child in the care of a local authority in respect of any period during which the child is allowed by the authority (under section 23(5)) to live with a parent of his.

(6) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Part of this Schedule.

(7) The cases are where the child is looked after by a local authority under—

(a) section 21;

(b) an interim care order;

(c) **[**F693section 92 of the Powers of Criminal Courts (Sentencing) Act 2000**]**.

Annotations:

Amendments (Textual)

F688 Words in Sch. 2 para. 21(4) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 20(a); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to transitional savings and provisions in arts. 3 and 4)

F689 Words in Sch. 2 Pt. III para. 21(4) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 108(c)**

F690 Words in Sch. 2 para. 21(4) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 20(b); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to transitional provisions and savings in arts. 3 and 4)

F691 Words in Sch. 2 para. 21(4) added (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(5)**; S.I. 1996/2208, **art. 2**

F692 Words in Sch. 2 para. 21(4) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(6)**; S.I. 2008/787, **art. 2(4)(f)**

F693 Words in Sch. 2 Pt. III para. 21(7)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 130**

Modifications etc. (not altering text)

C75 Sch. 2 para. 21: power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, ss. 53(2)(b), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**

C76 Sch. 2 para. 21 excluded (30.12.2005) by: The Adoption Agencies Regulations 2005 (S.I. 2005/389), **reg. 45(2)(d)**; The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), **reg. 46(2)(d)**

Commencement Information

I132 Sch. 2 Pt. III para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Agreed contributions

22 (1) Contributions towards a child's maintenance may only be recovered if the local authority have served a notice ("a contribution notice") on the contributor specifying —

(a) the weekly sum which they consider that he should contribute; and

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(b) arrangements for payment.

(2) The contribution notice must be in writing and dated.

(3) Arrangements for payment shall, in particular, include—

(a) the date on which liability to contribute begins (which must not be earlier than the date of the notice);

(b) the date on which liability under the notice will end (if the child has not before that date ceased to be looked after by the authority); and

(c) the date on which the first payment is to be made.

(4) The authority may specify in a contribution notice a weekly sum which is a standard contribution determined by them for all children looked after by them.

(5) The authority may not specify in a contribution notice a weekly sum greater than that which they consider—

(a) they would normally be prepared to pay if they had placed a similar child with local authority foster parents; and

(b) it is reasonably practicable for the contributor to pay (having regard to his means).

(6) An authority may at any time withdraw a contribution notice (without prejudice to their power to serve another).

(7) Where the authority and the contributor agree—

(a) the sum which the contributor is to contribute; and

(b) arrangements for payment,

(whether as specified in the contribution notice or otherwise) and the contributor notifies the authority in writing that he so agrees, the authority may recover summarily as a civil debt any contribution which is overdue and unpaid.

(8) A contributor may, by serving a notice in writing on the authority, withdraw his agreement in relation to any period of liability falling after the date of service of the notice.

(9) Sub-paragraph (7) is without prejudice to any other method of recovery.

Annotations:

Commencement Information

I133 Sch. 2 Pt. III para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Contribution orders

23 (1) Where a contributor has been served with a contribution notice and has—

(a) failed to reach any agreement with the local authority as mentioned in paragraph 22(7) within the period of one month beginning with the day on which the contribution notice was served; or

(b) served a notice under paragraph 22(8) withdrawing his agreement,

the authority may apply to the court for an order under this paragraph.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) On such an application the court may make an order ("a contribution order") requiring the contributor to contribute a weekly sum towards the child's maintenance in accordance with arrangements for payment specified by the court.

(3) A contribution order—

(a) shall not specify a weekly sum greater than that specified in the contribution notice; and

(b) shall be made with due regard to the contributor's means.

(4) A contribution order shall not—

(a) take effect before the date specified in the contribution notice; or

(b) have effect while the contributor is not liable to contribute (by virtue of paragraph 21); or

(c) remain in force after the child has ceased to be looked after by the authority who obtained the order.

(5) An authority may not apply to the court under sub-paragraph (1) in relation to a contribution notice which they have withdrawn.

(6) Where—

(a) a contribution order is in force;

(b) the authority serve another contribution notice; and

(c) the contributor and the authority reach an agreement under paragraph 22(7) in respect of that other contribution notice,

the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect.

(7) Where an agreement is reached under sub-paragraph (6) the authority shall notify the court—

(a) of the agreement; and

(b) of the date on which it took effect.

(8) A contribution order may be varied or revoked on the application of the contributor or the authority.

(9) In proceedings for the variation of a contribution order, the authority shall specify—

(a) the weekly sum which, having regard to paragraph 22, they propose that the contributor should contribute under the order as varied; and

(b) the proposed arrangements for payment.

(10) Where a contribution order is varied, the order—

(a) shall not specify a weekly sum greater than that specified by the authority in the proceedings for variation; and

(b) shall be made with due regard to the contributor's means.

(11) An appeal shall lie in accordance with rules of court from any order made under this paragraph.

Annotations:

Commencement Information

I134 Sch. 2 Pt. III para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Enforcement of contribution orders etc.

24 (1) A contribution order made by a magistrates' court shall be enforceable as a magistrates' court maintenance order (within the meaning of section 150(1) of the [M68]Magistrates' Courts Act 1980).

(2) Where a contributor has agreed, or has been ordered, to make contributions to a local authority, any other local authority within whose area the contributor is for the time being living may—

(a) at the request of the local authority who served the contribution notice; and

(b) subject to agreement as to any sum to be deducted in respect of services rendered,

collect from the contributor any contributions due on behalf of the authority who served the notice.

(3) In sub-paragraph (2) the reference to any other local authority includes a reference to—

(a) a local authority within the meaning of section 1(2) of the [M69]Social Work (Scotland) Act 1968; and

(b) a Health and Social Services Board established under Article 16 of the [M70]Health and Personal Social Services (Northern Ireland) Order 1972.

(4) The power to collect sums under sub-paragraph (2) includes the power to—

(a) receive and give a discharge for any contributions due; and

(b) (if necessary) enforce payment of any contributions,

even though those contributions may have fallen due at a time when the contributor was living elsewhere.

(5) Any contribution collected under sub-paragraph (2) shall be paid (subject to any agreed deduction) to the local authority who served the contribution notice.

(6) In any proceedings under this paragraph, a document which purports to be—

(a) a copy of an order made by a court under or by virtue of paragraph 23; and

(b) certified as a true copy by the **[**[F694]**[**[F695]designated officer for**]]** the court,

shall be evidence of the order.

(7) In any proceedings under this paragraph, a certificate which—

(a) purports to be signed by the clerk or some other duly authorised officer of the local authority who obtained the contribution order; and

(b) states that any sum due to the authority under the order is overdue and unpaid,

shall be evidence that the sum is overdue and unpaid.

Annotations:

Amendments (Textual)

F694 Words in Sch. 2 para. 24(6) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 162** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

F695 Words in Sch. 2 para. 24(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 190(1), **Sch. 8 para. 340**; S.I. 2005/910, **art. 3(y)**

Commencement Information

I135 Sch. 2 Pt. III para. 24 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Marginal Citations

M68 1980 c. 43.
M69 1968 c. 49.
M70 S.I. 1972/1265 (N.I.14).

Regulations

25 The **[**F696appropriate national authority**]** may make regulations—

(a) as to the considerations which a local authority must take into account in deciding—

(i) whether it is reasonable to recover contributions; and

(ii) what the arrangements for payment should be;

(b) as to the procedures **[**F697a local authority**]** must follow in reaching agreements with—

(i) contributors (under paragraphs 22 and 23); and

(ii) any other local authority (under paragraph 23).

Annotations:

Amendments (Textual)

F696 Words in Sch. 2 para. 25 substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, **Sch. 3 para. 27(5)(a)**

F697 Words in Sch. 2 para. 25 substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, **Sch. 3 para. 27(5)(b)**

Commencement Information

I136 Sch. 2 Pt. III para. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 3

Sections 35 and 36.

SUPERVISION ORDERS

PART I

GENERAL

Meaning of "responsible person"

1 In this Schedule, "the responsible person", in relation to a supervised child, means —

(a) any person who has parental responsibility for the child; and

(b) any other person with whom the child is living.

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Annotations:

Commencement Information

I137 Sch. 3 Pt. I para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Power of supervisor to give directions to supervised child

2 (1) A supervision order may require the supervised child to comply with any directions given from time to time by the supervisor which require him to do all or any of the following things—

(a) to live at a place or places specified in the directions for a period or periods so specified;

(b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;

(c) to participate in activities specified in the directions on a day or days so specified.

(2) It shall be for the supervisor to decide whether, and to what extent, he exercises his power to give directions and to decide the form of any directions which he gives.

(3) Sub-paragraph (1) does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment (which are matters dealt with in paragraphs 4 and 5).

Annotations:

Commencement Information

I138 Sch. 3 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Imposition of obligations on responsible person

3 (1) With the consent of any responsible person, a supervision order may include a requirement—

(a) that he take all reasonable steps to ensure that the supervised child complies with any direction given by the supervisor under paragraph 2;

(b) that he take all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 4 or 5;

(c) that he comply with any directions given by the supervisor requiring him to attend at a place specified in the directions for the purpose of taking part in activities so specified.

(2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is required to attend with him.

(3) A supervision order may require any person who is a responsible person in relation to the supervised child to keep the supervisor informed of his address, if it differs from the child's.

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Annotations:

Commencement Information

I139 Sch. 3 Pt. I para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Psychiatric and medical examinations

4 (1) A supervision order may require the supervised child—

(a) to submit to a medical or psychiatric examination; or

(b) to submit to any such examination from time to time as directed by the supervisor.

(2) Any such examination shall be required to be conducted—

(a) by, or under the direction of, such registered medical practitioner as may be specified in the order;

(b) at a place specified in the order and at which the supervised child is to attend as a non-resident patient; or

(c) at—

(i) a health service hospital; or

(ii) in the case of a psychiatric examination, a hospital **[**F698, independent hospital or care home**]**,

at which the supervised child is, or is to attend as, a resident patient.

(3) A requirement of a kind mentioned in sub-paragraph (2)(c) shall not be included unless the court is satisfied, on the evidence of a registered medical practitioner, that —

(a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and

(b) a period as a resident patient is necessary if the examination is to be carried out properly.

(4) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied that—

(a) where the child has sufficient understanding to make an informed decision, he consents to its inclusion; and

(b) satisfactory arrangements have been, or can be, made for the examination.

Annotations:

Amendments (Textual)

F698 Words in Sch. 3 para. 4(2)(c)(ii) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(24)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I140 Sch. 3 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Psychiatric and medical treatment

5 (1) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the [M71]Mental Health Act 1983, that the mental condition of the supervised child—

(a) is such as requires, and may be susceptible to, treatment; but

(b) is not such as to warrant his detention in pursuance of a hospital order under Part III of that Act,

the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

(2) The treatment specified in accordance with sub-paragraph (1) must be—

(a) by, or under the direction of, such registered medical practitioner as may be specified in the order;

(b) as a non-resident patient at such a place as may be so specified; or

(c) as a resident patient in a hospital **[**[F699], independent hospital or care home**]**.

(3) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a registered medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

(4) The treatment specified in accordance with sub-paragraph (3) must be—

(a) by, or under the direction of, such registered medical practitioner as may be specified in the order;

(b) as a non-resident patient at such place as may be so specified; or

(c) as a resident patient in a health service hospital.

(5) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied—

(a) where the child has sufficient understanding to make an informed decision, that he consents to its inclusion; and

(b) that satisfactory arrangements have been, or can be, made for the treatment.

(6) If a medical practitioner by whom or under whose direction a supervised person is being treated in pursuance of a requirement included in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that—

(a) the treatment should be continued beyond the period specified in the order;

(b) the supervised child needs different treatment;

(c) he is not susceptible to treatment; or

(d) he does not require further treatment,

the practitioner shall make a report in writing to that effect to the supervisor.

(7) On receiving a report under this paragraph the supervisor shall refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

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Annotations:

Amendments (Textual)

F699 Words in Sch. 3 para. 5(2)(c) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(24)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I141 Sch. 3 Pt. I para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M71 1983 c. 20.

PART II

MISCELLANEOUS

Annotations:

Commencement Information

I142 Sch. 3 Pt. II wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Life of supervision order

6 (1) Subject to sub-paragraph (2) and section 91, a supervision order shall cease to have effect at the end of the period of one year beginning with the date on which it was made.

(2) A supervision order shall also cease to have effect if an event mentioned in section 25(1)(a) or (b) of the [M72]Child Abduction and Custody Act 1985 (termination of existing orders) occurs with respect to the child.

(3) Where the supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as it may specify.

(4) A supervision order may not be extended so as to run beyond the end of the period of three years beginning with the date on which it was made.

Annotations:

Commencement Information

I143 Sch. 3 Pt. II para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M72 1985 c. 60.

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Limited life of directions

F700 7 . . . . . .

Annotations:

Amendments (Textual)

F700 Sch. 3 para. 7 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 27, **Sch. 20**; S.I. 1991/1883, **art. 3**,Sch.

Commencement Information

I144 Sch. 3 Pt. II para. 7 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Information to be given to supervisor etc.

8 (1) A supervision order may require the supervised child—

(a) to keep the supervisor informed of any change in his address; and

(b) to allow the supervisor to visit him at the place where he is living.

(2) The responsible person in relation to any child with respect to whom a supervision order is made shall—

(a) if asked by the supervisor, inform him of the child's address (if it is known to him); and

(b) if he is living with the child, allow the supervisor reasonable contact with the child.

Annotations:

Commencement Information

I145 Sch. 3 Pt. II para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Selection of supervisor

9 (1) A supervision order shall not designate a local authority as the supervisor unless—

(a) the authority agree; or

(b) the supervised child lives or will live within their area.

F701 (2) . . . . . .

(3) . . . . . .

(4) . . . . . .

(5) . . . . . .

Annotations:

Amendments (Textual)

F701 Sch. 3 Pt. II para. 9(2)-(5) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 para. 96, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

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Commencement Information
I146 Sch. 3 Pt. II para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Effect of supervision order on earlier orders

10 The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which—

(a) was made with respect to that child; and

(b) would otherwise continue in force.

Annotations:

Commencement Information
I147 Sch. 3 Pt. II para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Local authority functions and expenditure

11 (1) The Secretary of State may make regulations with respect to the exercise by a local authority of their functions where a child has been placed under their supervision by a supervision order.

(2) Where a supervision order requires compliance with directions given by virtue of this section, any expenditure incurred by the supervisor for the purposes of the directions shall be defrayed by the local authority designated in the order.

Annotations:

Commencement Information
I148 Sch. 3 Pt. II para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PART III

EDUCATION SUPERVISION ORDERS

Effect of orders

12 (1) Where an education supervision order is in force with respect to a child, it shall be the duty of the supervisor—

(a) to advise, assist and befriend, and give directions to—

(i) the supervised child; and

(ii) his parents,

in such a way as will, in the opinion of the supervisor, secure that he is properly educated;

(b) where any such directions given to—

(i) the supervised child; or

(ii) a parent of his,

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have not been complied with, to consider what further steps to take in the exercise of the supervisor's powers under this Act.

(2) Before giving any directions under sub-paragraph (1) the supervisor shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

(a) the child; and

(b) his parents,

including, in particular, their wishes as to the place at which the child should be educated.

(3) When settling the terms of any such directions, the supervisor shall give due consideration—

(a) having regard to the child's age and understanding, to such wishes and feelings of his as the supervisor has been able to ascertain; and

(b) to such wishes and feelings of the child's parents as he has been able to ascertain.

(4) Directions may be given under this paragraph at any time while the education supervision order is in force.

Annotations:

Commencement Information

I149 Sch. 3 Pt. III para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

13 (1) Where an education supervision order is in force with respect to a child, the duties of the child's parents under **[**F702sections 7 and 444 of the Education Act 1996 (duties to secure education of children and**]** to secure regular attendance of registered pupils) shall be superseded by their duty to comply with any directions in force under the education supervision order.

(2) Where an education supervision order is made with respect to a child—

(a) any school attendance order—

(i) made under **[**F703section 437 of the Education Act 1996**]** with respect to the child; and

(ii) in force immediately before the making of the education supervision order,

shall cease to have effect; and

(b) while the education supervision order remains in force, the following provisions shall not apply with respect to the child—

(i) **[**F704section 437**]** of that Act (school attendance orders);

(ii) **[**F705section 9 of that Act**]** (pupils to be educated in accordance with wishes of their parents);

(iii) **[**F706sections 411 and 423 of that Act**]** (parental preference and appeals against admission decisions);

[F707(c) a youth rehabilitation order made under Part 1 of the Criminal Justice and Immigration Act 2008 with respect to the child, while the education supervision order is in force, may not include an education requirement (within the meaning of that Part);**]**

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(d) any education requirement of a kind mentioned in paragraph (c), which was in force with respect to the child immediately before the making of the education supervision order, shall cease to have effect.

Annotations:

Amendments (Textual)

F702 Words in Sch. 3 Pt. III para. 13(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I**, para. 93(2)(a)(with s. 1(4), Sch. 39 paras. 30, 39)

F703 Words in Sch. 3 Pt. III para. 13(2)(a)(i) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37**, Pt. I para. 93(2)(b)(i)(with s. 1(4), Sch. 39 paras. 30, 39)

F704 Words in Sch. 3 Pt. III para. 13(2)(b)(i) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 93(2)(b)(ii)**(with s. 1(4), Sch. 39 paras. 30, 39)

F705 Words in Sch. 3 Pt. III para. 13(2)(b)(ii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 93(2)(b)(iii)**(with s. 1(4), Sch. 39, paras. 30, 39)

F706 Words in Sch. 3 Pt. III para. 13(2)(b)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37**, para. 93(2)(b)(iv)(with s. 1(4), Sch. 39 paras. 30, 39)

F707 Sch. 3 para. 13(2)(c) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 37(2)** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**

Commencement Information

I150 Sch. 3 Pt. III para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Effect where child also subject to supervision order

14 (1) This paragraph applies where an education supervision order and a supervision order, or **[**F708youth rehabilitation order (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008)**]**, are in force at the same time with respect to the same child.

(2) Any failure to comply with a direction given by the supervisor under the education supervision order shall be disregarded if it would not have been reasonably practicable to comply with it without failing to comply with a direction **[**F709or instruction**]** given under the other order.

Annotations:

Amendments (Textual)

F708 Words in Sch. 3 para. 14(1) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 37(3)(a)** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**

F709 Words in Sch. 3 para. 14(2) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 37(3)(b)** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**

Commencement Information

I151 Sch. 3 Pt. III para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Duration of orders

15 (1) An education supervision order shall have effect for a period of one year, beginning with the date on which it is made.

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(2) An education supervision order shall not expire if, before it would otherwise have expired, the court has (on the application of the authority in whose favour the order was made) extended the period during which it is in force.

(3) Such an application may not be made earlier than three months before the date on which the order would otherwise expire.

(4) The period during which an education supervision order is in force may be extended under sub-paragraph (2) on more than one occasion.

(5) No one extension may be for a period of more than three years.

(6) An education supervision order shall cease to have effect on—

(a) the child's ceasing to be of compulsory school age; or

(b) the making of a care order with respect to the child;

and sub-paragraphs (1) to (4) are subject to this sub-paragraph.

Annotations:

Commencement Information

I152 Sch. 3 Pt. III para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Information to be given to supervisor etc.

16 (1) An education supervision order may require the child—

(a) to keep the supervisor informed of any change in his address; and

(b) to allow the supervisor to visit him at the place where he is living.

(2) A person who is the parent of a child with respect to whom an education supervision order has been made shall—

(a) if asked by the supervisor, inform him of the child's address (if it is known to him); and

(b) if he is living with the child, allow the supervisor reasonable contact with the child.

Annotations:

Commencement Information

I153 Sch. 3 Pt. III para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Discharge of orders

17 (1) The court may discharge any education supervision order on the application of—

(a) the child concerned;

(b) a parent of his; or

(c) the local education authority concerned.

(2) On discharging an education supervision order, the court may direct the local authority within whose area the child lives, or will live, to investigate the circumstances of the child.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Commencement Information

I154 Sch. 3 Pt. III para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Offences

18 (1) If a parent of a child with respect to whom an education supervision order is in force persistently fails to comply with a direction given under the order he shall be guilty of an offence.

(2) It shall be a defence for any person charged with such an offence to prove that—

(a) he took all reasonable steps to ensure that the direction was complied with;

(b) the direction was unreasonable; or

(c) he had complied with—

(i) a requirement included in a supervision order made with respect to the child; or

(ii) directions given under such a requirement,

and that it was not reasonably practicable to comply both with the direction and with the requirement or directions mentioned in this paragraph.

(3) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Annotations:

Commencement Information

I155 Sch. 3 Pt. III para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Persistent failure of child to comply with directions

19 (1) Where a child with respect to whom an education supervision order is in force persistently fails to comply with any direction given under the order, the local education authority concerned shall notify the appropriate local authority.

(2) Where a local authority have been notified under sub-paragraph (1) they shall investigate the circumstances of the child.

(3) In this paragraph "the appropriate local authority" has the same meaning as in section 36.

Annotations:

Commencement Information

I156 Sch. 3 Pt. III para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I 1991/828, art. 3(2)

Miscellaneous

20 The Secretary of State may by regulations make provision modifying, or displacing, the provisions of any enactment about education in relation to any child with respect

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to whom an education supervision order is in force to such extent as appears to the Secretary of State to be necessary or expedient in consequence of the provision made by this Act with respect to such orders.

Annotations:

Commencement Information
I157 Sch. 3 Pt. III para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Interpretation

21 In this Part of this Schedule "parent" has the same meaning as in **[**F710the Education Act 1996.**]**).

Annotations:

Amendments (Textual)
F710 Words in Sch. 3 Pt. III para. 21 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37**, Pt. I para. 93(3)(with s. 1(4))

Commencement Information
I158 Sch. 3 Pt. III para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 4

Section 53(6).

MANAGEMENT AND CONDUCT OF COMMUNITY HOMES

PART I

INSTRUMENTS OF MANAGEMENT

Instruments of management for controlled and assisted community homes

1 (1) The Secretary of State may by order make an instrument of management providing for the constitution of a body of managers for any F711. . . home which is designated as a controlled or assisted community home.

(2) Sub-paragraph (3) applies where two or more . . . homes are designated as controlled community homes or as assisted community homes.

(3) If—

(a) those homes are, or are to be, provided by the same voluntary organisation; and

(b) the same local authority is to be represented on the body of managers for those homes,

a single instrument of management may be made by the Secretary of State under this paragraph constituting one body of managers for those homes or for any two or more of them.

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(4) The number of persons who, in accordance with an instrument of management, constitute the body of managers for a . . . home shall be such number (which must be a multiple of three) as may be specified in the instrument.

(5) The instrument shall provide that the local authority specified in the instrument shall appoint—

(a) in the case of a . . . home which is designated as a controlled community home, two-thirds of the managers; and

(b) in the case of a . . . home which is designated as an assisted community home, one-third of them.

(6) An instrument of management shall provide that the foundation managers shall be appointed, in such manner and by such persons as may be specified in the instrument —

(a) so as to represent the interests of the voluntary organisation by which the home is, or is to be, provided; and

(b) for the purpose of securing that—

(i) so far as is practicable, the character of the home [F712]. . . will be preserved; and

(ii) subject to paragraph 2(3), the terms of any trust deed relating to the home are observed.

(7) An instrument of management shall come into force on such date as it may specify.

(8) If an instrument of management is in force in relation to a . . . home the home shall be (and be known as) a controlled community home or an assisted community home, according to its designation.

(9) In this paragraph—

"foundation managers", in relation to a . . . home, means those of the managers of the home who are not appointed by a local authority in accordance with sub-paragraph (5); and

"designated" means designated in accordance with section 53.

Annotations:

Amendments (Textual)

F711 Word in Sch. 4 para. 1(1)(2)(4)(5)(8)(9) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 28(1), **Sch. 20**; S.I. 1991/1883,art. 3, Sch.

F712 Words in Sch. 4 para. 1(6)(b)(i) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 28(2), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I159 Sch. 4 Pt. I para. 1 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

2 (1) An instrument of management shall contain such provisions as the Secretary of State considers appropriate.

(2) Nothing in the instrument of management shall affect the purposes for which the premises comprising the home are held.

(3) Without prejudice to the generality of sub-paragraph (1), an instrument of management may contain provisions—

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(a) specifying the nature and purpose of the home (or each of the homes) to which it relates;

(b) requiring a specified number or proportion of the places in that home (or those homes) to be made available to local authorities and to any other body specified in the instrument; and

(c) relating to the management of that home (or those homes) and the charging of fees with respect to—

(i) children placed there; or

(ii) places made available to any local authority or other body.

(4) Subject to sub-paragraphs (1) and (2), in the event of any inconsistency between the provisions of any trust deed and an instrument of management, the instrument of management shall prevail over the provisions of the trust deed in so far as they relate to the home concerned.

(5) After consultation with the voluntary organisation concerned and with the local authority specified in its instrument of management, the Secretary of State may by order vary or revoke any provisions of the instrument.

Annotations:

Commencement Information

I160 Sch. 4 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PART II

MANAGEMENT OF CONTROLLED AND ASSISTED COMMUNITY HOMES

3 (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local authority specified in its instrument of management.

(2) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by which the home is provided.

(3) In this paragraph—

"home" means a controlled community home or (as the case may be) assisted community home; and

"the managers", in relation to a home, means the managers constituted by its instrument of management; and

"the responsible body", in relation to a home, means the local authority or (as the case may be) voluntary organisation responsible for its management, equipment and maintenance.

(4) The functions of a home's responsible body shall be exercised through the managers **[**[F713], except in so far as, under section 53(3B), any of the accommodation is to be managed by another person.**]**.

(5) Anything done, liability incurred or property acquired by a home's managers shall be done, incurred or acquired by them as agents of the responsible body **[**[F714]; and similarly, to the extent that a contract so provides, as respects anything done, liability incurred or property acquired by a person by whom, under section 53(3B), any of the accommodation is to be managed**]**.

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(6) In so far as any matter is reserved for the decision of a home's responsible body by—

(a) sub-paragraph (8);

(b) the instrument of management;

(c) the service by the body on the managers, or any of them, of a notice reserving any matter,

that matter shall be dealt with by the body and not by the managers.

(7) In dealing with any matter so reserved, the responsible body shall have regard to any representations made to the body by the managers.

(8) The employment of persons at a home shall be a matter reserved for the decision of the responsible body.

(9) Where the instrument of management of a controlled community home so provides, the responsible body may enter into arrangements with the voluntary organisation by which that home is provided whereby, in accordance with such terms as may be agreed between them and the voluntary organisation, persons who are not in the employment of the responsible body shall undertake duties at that home.

(10) Subject to sub-paragraph (11)—

(a) where the responsible body for an assisted community home proposes to engage any person to work at that home or to terminate without notice the employment of any person at that home, it shall consult the local authority specified in the instrument of management and, if that authority so direct, the responsible body shall not carry out its proposal without their consent; and

(b) that local authority may, after consultation with the responsible body, require that body to terminate the employment of any person at that home.

(11) Paragraphs (a) and (b) of sub-paragraph (10) shall not apply—

(a) in such cases or circumstances as may be specified by notice in writing given by the local authority to the responsible body; and

(b) in relation to the employment of any persons or class of persons specified in the home's instrument of management.

(12) The accounting year of the managers of a home shall be such as may be specified by the responsible body.

(13) Before such date in each accounting year as may be so specified, the managers of a home shall submit to the responsible body estimates, in such form as the body may require, of expenditure and receipts in respect of the next accounting year.

(14) Any expenses incurred by the managers of a home with the approval of the responsible body shall be defrayed by that body.

(15) The managers of a home shall keep—

(a) proper accounts with respect to the home; and

(b) proper records in relation to the accounts.

(16) Where an instrument of management relates to more than one home, one set of accounts and records may be kept in respect of all the homes to which it relates.

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Annotations:

Amendments (Textual)

F713 Words in Sch. 4 Pt. II para. 3(4) inserted (8.3.1996) by 1994 c. 33, **s. 22(3)(a)**; S.I. 1996/625, **art. 2**

F714 Words in Sch. 4 Pt. II para. 3(5) inserted (8.3.1996) by 1994 c. 33, **s. 22(3)(b)**; S.I. 1996/625, **art.2**

Commencement Information

I161 Sch. 4 Pt. II para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PART III

REGULATIONS

4 (1) The Secretary of State may make regulations—

(a) as to the placing of children in community homes;

F715(b) . . . . . .

(c) . . . . . .

F716(2) . . . . . .

(3) . . . . . .

Annotations:

Amendments (Textual)

F715 Sch. 4 Pt. III para. 4(1)(b)(c) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F716 Sch. 4 Pt. III para. 4(2)(3) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I162 Sch. 4 Pt. III para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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SCHEDULE 5

Section 60(4).

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

PART I

REGISTRATION OF VOLUNTARY HOMES

General

F717 1 . . . . . .

Annotations:

Amendments (Textual)

F717 Sch. 5 Pt. I para. 1 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Procedure

F718 2 . . . . . .

Annotations:

Amendments (Textual)

F718 Sch. 5 Pt. I para. 2 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Right to make representations

F719 3 . . . . . .

Annotations:

Amendments (Textual)

F719 Sch. 5 Pt. I para. 3 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Decision of Secretary of State

F720 4 . . . . . .

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Annotations:

Amendments (Textual)

F720 Sch. 5 Pt. I para. 4 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Appeals

F721 5 . . . . . .

Annotations:

Amendments (Textual)

F721 Sch. 5 Pt. I para. 5 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Notification of particulars with respect to voluntary homes

F722 6 . . . . . .

Annotations:

Amendments (Textual)

F722 Sch. 5 Pt. I para. 6 repealed (1.4.2002) by 2000 c. 14, s. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

PART II

REGULATIONS AS TO VOLUNTARY HOMES

Regulations as to conduct of voluntary homes

7 (1) The **[**F723appropriate national authority**]** may make regulations—

(a) as to the placing of children in voluntary homes;

F724 (b) . . . . . .

(c) . . . . . .

F725 (2) . . . . . .

(3) . . . . . .

(4) . . . . . .

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Annotations:

Amendments (Textual)

F723 Words in Sch. 5 para. 7 substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 28**

F724 Sch. 5 Pt. II para. 7(1)(b)(c) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F725 Sch. 5 Pt. II para. 7(2)-(4) repealed (1.4.2002) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I163 Sch. 5 Pt. II para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Disqualification

F726 8 . . . . . .

Annotations:

Amendments (Textual)

F726 Sch. 5 Pt. II para. 8 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

SCHEDULE 6

Section 63(11).

[F727 PRIVATE CHILDREN'S HOMES]

Annotations:

Amendments (Textual)

F727 Sch. 6: words in heading substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(25)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

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PART I

REGISTRATION

Application for registration

F728 1 . . . . . .

Annotations:

Amendments (Textual)

F728 Sch. 6 Pt. I para. 1 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Conditions imposed on registration

F729 2 . . . . . .

Annotations:

Amendments (Textual)

F729 Sch. 6 Pt. I para. 2 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Annual review of registration

F730 3 . . . . . .

Annotations:

Amendments (Textual)

F730 Sch. 6 Pt. I para. 3 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Cancellation of registration

F731 4 . . . . . .

Annotations:

Amendments (Textual)

F731 Sch. 6 Pt. I para. 4 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

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Procedure

F732 5 . . . . . .

Annotations:

Amendments (Textual)

F732 Sch. 6 Pt. I para. 5 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Right to make representations

F733 6 . . . . . .

Annotations:

Amendments (Textual)

F733 Sch. 6 Pt. I para. 6 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Decision of local authority

F734 7 . . . . . .

Annotations:

Amendments (Textual)

F734 Sch. 6 Pt. I para. 7 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Appeals

F735 8 . . . . . .

Annotations:

Amendments (Textual)

F735 Sch. 6 Pt. I para. 8 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Prohibition on further applications

F736 9 . . . . . .

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Annotations:

Amendments (Textual)

F736 Sch. 6 Pt. I para. 9 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

PART II

REGULATIONS

10 (1) The Secretary of State may make regulations—

(a) as to the placing of children in **[**F737private**]** children's homes;

F738(b) . . . . . .

(c) . . . . . .

(2) The regulations may in particular—

F739(a) . . . . . .

(b) . . . . . .

(c) . . . . . .

(d) . . . . . .

(e) . . . . . .

(f) . . . . . .

(g) . . . . . .

(h) . . . . . .

(i) . . . . . .

(j) . . . . . .

(jj) . . . . . .

(k) . . . . . .

(l) make provision similar to that made by regulations under section 26.

F740(3) . . . . . .

(4) . . . . . .

Annotations:

Amendments (Textual)

F737 Words in Sch. 6 Pt. II para. 10(1)(a) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(25)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F738 Sch. 6 Pt. II para. 10(1)(b)(c) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F739 Sch. 6 Pt. II para. 10(2)(a)-(k) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of

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art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F740 Sch. 6 Pt. II para. 10(3)(4) repealed (1.4.2002) by 2002 c. 14, s. 117(2), **Sch. 6**; S.I. 2002/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I164 Sch. 6 Pt. II para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 7

Section 63(12).

FOSTER PARENTS: LIMITS ON NUMBER OF FOSTER CHILDREN

Interpretation

1 For the purposes of this Schedule, a person fosters a child if—

(a) he is a local authority foster parent in relation to the child;

(b) he is a foster parent with whom the child has been placed by a voluntary organisation; or

(c) he fosters the child privately.

Annotations:

Commencement Information

I165 Sch. 7 para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The usual fostering limit

2 Subject to what follows, a person may not foster more than three children ("the usual fostering limit").

Annotations:

Commencement Information

I166 Sch. 7 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Siblings

3 A person may exceed the usual fostering limit if the children concerned are all siblings with respect to each other.

Annotations:

Commencement Information

I167 Sch. 7 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Exemption by local authority

4 (1) A person may exceed the usual fostering limit if he is exempted from it by the local authority within whose area he lives.

(2) In considering whether to exempt a person, a local authority shall have regard, in particular, to—

(a) the number of children whom the person proposes to foster;

(b) the arrangements which the person proposes for the care and accommodation of the fostered children;

(c) the intended and likely relationship between the person and the fostered children;

(d) the period of time for which he proposes to foster the children; and

(e) whether the welfare of the fostered children (and of any other children who are or will be living in the accommodation) will be safeguarded and promoted.

(3) Where a local authority exempt a person, they shall inform him by notice in writing—

(a) that he is so exempted;

(b) of the children, described by name, whom he may foster; and

(c) of any condition to which the exemption is subject.

(4) A local authority may at any time by notice in writing—

(a) vary or cancel an exemption; or

(b) impose, vary or cancel a condition to which the exemption is subject,

and, in considering whether to do so, they shall have regard in particular to the considerations mentioned in sub-paragraph (2).

(5) The Secretary of State may make regulations amplifying or modifying the provisions of this paragraph in order to provide for cases where children need to be placed with foster parents as a matter of urgency.

Annotations:

Commencement Information

I168 Sch. 7 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Effect of exceeding fostering limit

5 (1) A person shall cease to be treated **[**[F741], for the purposes of this Act and the Care Standards Act 2000**]** as fostering and shall be treated **[**[F741], for the purposes of this Act and the Care Standards Act 2000**]** as carrying on a children's home if—

(a) he exceeds the usual fostering limit; or

(b) where he is exempted under paragraph 4,—

(i) he fosters any child not named in the exemption; and

(ii) in so doing, he exceeds the usual fostering limit.

(2) Sub-paragraph (1) does not apply if the children concerned are all siblings in respect of each other.

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Annotations:

Amendments (Textual)

F741 Words in Sch. 7 para. 5(1) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(26)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I169 Sch. 7 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Complaints etc.

6 (1) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them about the discharge of their functions under paragraph 4 by a person exempted or seeking to be exempted under that paragraph.

(2) In carrying out any consideration of representations under sub-paragraph (1), a local authority shall comply with any regulations made by the Secretary of State for the purposes of this paragraph.

Annotations:

Commencement Information

I170 Sch. 7 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 8

Section 66(5).

PRIVATELY FOSTERED CHILDREN

Exemptions

1 A child is not a privately fostered child while he is being looked after by a local authority.

Annotations:

Commencement Information

I171 Sch. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

2 (1) A child is not a privately fostered child while he is in the care of any person—

(a) in premises in which any—

(i) parent of his;

(ii) person who is not a parent of his but who has parental responsibility for him; or

(iii) person who is a relative of his and who has assumed responsibility for his care,

is for the time being living;

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[F742](b) . . . . . .

(c) in accommodation provided by or on behalf of any voluntary organisation;

(d) in any school in which he is receiving full-time education;

(e) in any health service hospital;

[[F743](f) in any care home or independent hospital**]**

(g) in any home or institution not specified in this paragraph but provided, equipped and maintained by the Secretary of State.

(2) Sub-paragraph **[**[F744](1)(c)**]** to (g) does not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the paragraph in question.

Annotations:

Amendments (Textual)

F742 Sch. 8 para. 2(1)(b) repealed (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(27)(a), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(a)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)(g)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

F743 Sch. 8 para. 2(1)(f) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(28)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

F744 Words in Sch. 8 para. 2(2) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I172 Sch. 8 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

3 A child is not a privately fostered child while he is in the care of any person in compliance with—

[[F745](a) a youth rehabilitation order made under section 1 of the Criminal Justice and Immigration Act 2008;**]**

(b) a supervision requirement within the meaning of **[**[F746]Part II of the Children (Scotland) Act 1995**]**.

Annotations:

Amendments (Textual)

F745 Sch. 8 para. 3(a) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 38** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**

F746 Words in Sch. 8 para. 3(b) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 48(5)**(with ss. 90, 103(1)); S.I. 1996/3201, **art. 3(7)**

Commencement Information

I173 Sch. 8 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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4 A child is not a privately fostered child while he is liable to be detained, or subject to guardianship, under the [M73]Mental Health Act 1983.

Annotations:

Commencement Information

I174 Sch. 8 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M73 1983 c. 20.

5 A child is not a privately fostered child while **[**[F747]he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—

(a) section 2 of the Adoption and Children Act 2002;

(b) section 1 of the Adoption (Scotland) Act 1978; or

(c) Article 3 of the Adoption (Northern Ireland) Order 1987**]**

[[F748]or while he is a child in respect of whom a local authority have functions by virtue of regulations under section 83(6)(b) of the Adoption and Children Act 2002 (which relates to children brought into the United Kingdom for adoption), or corresponding functions by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act 1999 (regulations to give effect to Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption).**]**

Annotations:

Amendments (Textual)

F747 Sch. 8 para. 5(a)-(c) and preceding words substituted (30.12.2005) for Sch. 8 para. 5(a)(b) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 73 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F748 Words in Sch. 8 para. 5 inserted (2.8.2007) by Children and Adoption Act 2006 (c. 20), **ss. 14(3)**, 17; S.I. 2007/2287, **art. 2(1)(c)**

Commencement Information

I175 Sch. 8 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Power of local authority to impose requirements

6 (1) Where a person is fostering any child privately, or proposes to foster any child privately, the appropriate local authority may impose on him requirements as to—

(a) the number, age and sex of the children who may be privately fostered by him;

(b) the standard of the accommodation and equipment to be provided for them;

(c) the arrangements to be made with respect to their health and safety; and

(d) particular arrangements which must be made with respect to the provision of care for them,

and it shall be his duty to comply with any such requirement before the end of such period as the authority may specify unless, in the case of a proposal, the proposal is not carried out.

(2) A requirement may be limited to a particular child, or class of child.

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(3) A requirement (other than one imposed under sub-paragraph (1)(a)) may be limited by the authority so as to apply only when the number of children fostered by the person exceeds a specified number.

(4) A requirement shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—

(a) the reason for imposing the requirement;

(b) his right under paragraph 8 to appeal against it; and

(c) the time within which he may do so.

(5) A local authority may at any time vary any requirement, impose any additional requirement or remove any requirement.

(6) In this Schedule—

(a) "the appropriate local authority" means—

(i) the local authority within whose area the child is being fostered; or

(ii) in the case of a proposal to foster a child, the local authority within whose area it is proposed that he will be fostered; and

(b) "requirement", in relation to any person, means a requirement imposed on him under this paragraph.

Annotations:

Modifications etc. (not altering text)

C77 Sch. 8 para. 6: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), **ss. 45-47**

Commencement Information

I176 Sch. 8 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Regulations requiring notification of fostering etc.

7 (1) The Secretary of State may by regulations make provision as to—

(a) the circumstances in which notification is required to be given in connection with children who are, have been or are proposed to be fostered privately; and

(b) the manner and form in which such notification is to be given.

(2) The regulations may, in particular—

(a) require any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately to notify the appropriate authority;

(b) require any person who is—

(i) a parent of a child; or

(ii) a person who is not a parent of his but who has parental responsibility for a child,

and who knows that it is proposed that the child should be fostered privately, to notify the appropriate authority;

(c) require any parent of a privately fostered child, or person who is not a parent of such a child but who has parental responsibility for him, to notify the appropriate authority of any change in his address;

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(d) require any person who proposes to foster a child privately, to notify the appropriate authority of his proposal;

(e) require any person who is fostering a child privately, or proposes to do so, to notify the appropriate authority of—

(i) any offence of which he has been convicted;

(ii) any disqualification imposed on him under section 68; or

(iii) any prohibition imposed on him under section 69;

(f) require any person who is fostering a child privately, to notify the appropriate authority of any change in his address;

(g) require any person who is fostering a child privately to notify the appropriate authority in writing of any person who begins, or ceases, to be part of his household;

(h) require any person who has been fostering a child privately, but has ceased to do so, to notify the appropriate authority (indicating, where the child has died, that that is the reason).

Annotations:

Modifications etc. (not altering text)

C78 Sch. 8 para. 7: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), **ss. 45-47**

Commencement Information

I177 Sch. 8 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[[F749]7A Every local authority must promote public awareness in their area of requirements as to notification for which provision is made under paragraph 7.**]**

Annotations:

Amendments (Textual)

F749 Sch. 8 para. 7A inserted (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), **s. 44(7)**; S.I. 2005/394, **art. 2(2)(d)**; S.I. 2006/885, **art. 2(2)(b)**

Appeals

8 (1) A person aggrieved by—

(a) a requirement imposed under paragraph 6;

(b) a refusal of consent under section 68;

(c) a prohibition imposed under section 69;

(d) a refusal to cancel such a prohibition;

(e) a refusal to make an exemption under paragraph 4 of Schedule 7;

(f) a condition imposed in such an exemption; or

(g) a variation or cancellation of such an exemption,

may appeal to the court.

(2) The appeal must be made within fourteen days from the date on which the person appealing is notified of the requirement, refusal, prohibition, condition, variation or cancellation.

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(3) Where the appeal is against—

(a) a requirement imposed under paragraph 6;

(b) a condition of an exemption imposed under paragraph 4 of Schedule 7; or

(c) a variation or cancellation of such an exemption,

the requirement, condition, variation or cancellation shall not have effect while the appeal is pending.

(4) Where it allows an appeal against a requirement or prohibition, the court may, instead of cancelling the requirement or prohibition—

(a) vary the requirement, or allow more time for compliance with it; or

(b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the local authority had power to impose under paragraph 6 are complied with.

(5) Any requirement or prohibition specified or substituted by a court under this paragraph shall be deemed for the purposes of Part IX (other than this paragraph) to have been imposed by the local authority under paragraph 6 or (as the case may be) section 69.

(6) Where it allows an appeal against a refusal to make an exemption, a condition imposed in such an exemption or a variation or cancellation of such an exemption, the court may—

(a) make an exemption;

(b) impose a condition; or

(c) vary the exemption.

(7) Any exemption made or varied under sub-paragraph (6), or any condition imposed under that sub-paragraph, shall be deemed for the purposes of Schedule 7 (but not for the purposes of this paragraph) to have been made, varied or imposed under that Schedule.

(8) Nothing in sub-paragraph (1)(e) to (g) confers any right of appeal on—

(a) a person who is, or would be if exempted under Schedule 7, a local authority foster parent; or

(b) a person who is, or would be if so exempted, a person with whom a child is placed by a voluntary organisation.

Annotations:

Modifications etc. (not altering text)

C79 Sch. 8 para. 8: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), **ss. 45-47**

Commencement Information

I178 Sch. 8 para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Extension of Part IX to certain school children during holidays

9 (1) Where a child under sixteen who is a pupil at a school [F750]. . . lives at the school during school holidays for a period of more than two weeks, Part IX shall apply in relation to the child as if—

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(a) while living at the school, he were a privately fostered child; and

(b) paragraphs **[**F751**]**2(1)(c) and (d)**]** and 6 were omitted.

[F752**]**But this sub-paragraph does not apply to a school which is an appropriate children's home.**]**

(2) Sub-paragraph (3) applies to any person who proposes to care for and accommodate one or more children at a school in circumstances in which some or all of them will be treated as private foster children by virtue of this paragraph.

(3) That person shall, not less than two weeks before the first of those children is treated as a private foster child by virtue of this paragraph during the holiday in question, give written notice of his proposal to the local authority within whose area the child is ordinarily resident ("the appropriate authority"), stating the estimated number of the children.

(4) A local authority may exempt any person from the duty of giving notice under sub-paragraph (3).

(5) Any such exemption may be granted for a special period or indefinitely and may be revoked at any time by notice in writing given to the person exempted.

(6) Where a child who is treated as a private foster child by virtue of this paragraph dies, the person caring for him at the school shall, not later than 48 hours after the death, give written notice of it—

(a) to the appropriate local authority; and

(b) where reasonably practicable, to each parent of the child and to every person who is not a parent of his but who has parental responsibility for him.

(7) Where a child who is treated as a foster child by virtue of this paragraph ceases for any other reason to be such a child, the person caring for him at the school shall give written notice of the fact to the appropriate local authority.

Annotations:

Amendments (Textual)

F750 Words in Sch. 8 para. 9(1) repealed (1.4.2002) by 2000 c. 14, ss. 110, 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(c)(g)** (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

F751 Words in Sch. 8 para. 9(1)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F752 Words in Sch. 8 para. 9(1) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

Modifications etc. (not altering text)

C80 Sch. 8 para. 9: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), **ss. 45-47**

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Commencement Information
I179 Sch. 8 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Prohibition of advertisements relating to fostering

10 No advertisement indicating that a person will undertake, or will arrange for, a child to be privately fostered shall be published, unless it states that person's name and address.

Annotations:

Commencement Information
I180 Sch. 10 para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Avoidance of insurances on lives of privately fostered children

11 A person who fosters a child privately and for reward shall be deemed for the purposes of the [M74]Life Assurance Act 1774 to have no interest in the life of the child.

Annotations:

Commencement Information
I181 Sch. 8 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M74 1774 c. 48.

F753

Section 71(16).

SCHEDULE 9

Annotations:

Amendments (Textual)
F753 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

Modifications etc. (not altering text)
C81 Pt. X and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.)) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, **art. 2(1)(a)(2)(3)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

Applications for registration

[F754]1 . . . . . .

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Annotations:

Amendments (Textual)

F754 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C82 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Disqualification from registration

F755 2 . . . . . .

Annotations:

Amendments (Textual)

F755 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C83 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Exemption of certain schools

F756 3 . . . . . .

Annotations:

Amendments (Textual)

F756 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C84 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Exemption for other establishments

F757 4 . . . . . .

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Annotations:

Amendments (Textual)

F757 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C85 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Exemption for occasional facilities

F758 5 . . . . . .

Annotations:

Amendments (Textual)

F758 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C86 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Certificates of registration

F759 6 . . . . . .

Annotations:

Amendments (Textual)

F759 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C87 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Fees for annual inspection of premises

F760 7 (1) Where—

(a) a person is registered under section 71, and

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(b) the local authority concerned make an annual inspection of the premises in question under section 76,

they shall serve on that person a notice informing him that the inspection is to be carried out and requiring him to pay to them such fee as may be prescribed.

(2) It shall be a condition of the continued registration of that person under section 71 that the fee is so paid before the expiry of the period of twenty-eight days beginning with the date on which the inspection is carried out.

Annotations:

Amendments (Textual)

F760 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C88 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

Co-operation between authorities

F761 8 . . . . . .

Annotations:

Amendments (Textual)

F761 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(I)** (subject to arts. 3-13)

Modifications etc. (not altering text)

C89 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, **s. 79(5)** it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the **Sch.**); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in **Schs. 1-3**)

[F762SCHEDULE 9A

CHILD MINDING AND DAY CARE FOR YOUNG CHILDREN[F763 IN WALES]

Annotations:

Amendments (Textual)

F762 Sch. 9A (paras. 1-8) inserted ((E.) 16.3.2001 for specified purposes otherwise 2.7.2001 and (W.) 1.7.2001 for specified purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/1210, **art. 2(b)**; S.I. 2001/2041, **art. 2(1)(b)**(with transitional provisions and savings in art. 3); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

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F763 Sch. 9A: words in heading inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(2)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

Exemption of certain schools

F764 1 (1) Except in prescribed circumstances, Part XA does not apply to provision of day care within sub-paragraph (2) for any child looked after in—

(a) a maintained school;

(b) a school assisted by a local education authority;

(c) a school in respect of which payments are made by F765... the Assembly under section 485 of the M75 Education Act 1996;

(d) an independent school.

(2) The provision mentioned in sub-paragraph (1) is provision of day care made by—

(a) the person carrying on the establishment in question as part of the establishment's activities; or

(b) a person employed to work at that establishment and authorised to make that provision as part of the establishment's activities.

(3) In sub-paragraph (1)—

"assisted" has the same meaning as in the M76 Education Act 1996;

"maintained school" has the meaning given by section 20(7) of the M77 School Standards and Framework Act 1998.

Annotations:

Amendments (Textual)

F764 Sch. 9A para. 1 inserted ((E.) 16.3.2001 for specified purposes otherwise 2.7.2001 and (W.) 1.7.2001 for specified purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/1210, **art. 2**: S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F765 Words in Sch. 9A para. 1(1)(c) repealed (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, Sch. 2 para. 18(3), **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

Marginal Citations

M75 1996 c. 56.

M76 1996 c. 56.

M77 1998 c. 31.

Exemption for other establishments

F766 2 (1) Part XA does not apply to provision of day care within sub-paragraph (2) for any child looked after—

(a) in an appropriate children's home;

(b) in a care home;

(c) as a patient in a hospital (within the meaning of the Care Standards Act 2000);

(d) in a residential family centre.

(2) The provision mentioned in sub-paragraph (1) is provision of day care made by—

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(a) the department, authority or other person carrying on the establishment in question as part of the establishment's activities; or

(b) a person employed to work at that establishment and authorised to make that provision as part of the establishment's activities.

Annotations:

Amendments (Textual)

F766 Sch. 9A para. 2 inserted ((W.) 1.7.2001 for certain purposes otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/2041, **art. 2(1)(b)**(with transitional provisions and savings in art. 3); S.I. 2001/2190, **art. 2**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

[F767 2A (1) Part XA does not apply to provision of day care in a hotel, guest house or other similar establishment for children staying in that establishment where—

(a) the provision takes place only between 6 pm and 2 am; and

(b) the person providing the care is doing so for no more than two different clients at the same time.

(2) For the purposes of sub-paragraph (1)(b), a "client" is a person at whose request (or persons at whose joint request) day care is provided for a child.**]**

Annotations:

Amendments (Textual)

F767 Sch. 9A para. 2A inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 40, **Sch. 4 para. 7**; S.I. 2005/394, **art. 2(1)(k)**; S.I. 2006/885, **art. 2(2)(c)**

Exemption for occasional facilities

F768 3 (1) Where day care is provided on particular premises on less than six days in any year, that provision shall be disregarded for the purposes of Part XA if the person making it has notified **[**F769 the Assembly**]** in writing before the first occasion on which the premises concerned are so used in that year.

(2) In sub-paragraph (1) "year" means the year beginning with the day (after the commencement of paragraph 5 of Schedule 9) on which the day care in question was or is first provided on the premises concerned and any subsequent year.

Annotations:

Amendments (Textual)

F768 Sch. 9A para. 3 inserted ((W.) 1.7.2001 for certain purposes otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, **art. 2**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F769 Words in Sch. 9A para. 3(1) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

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Disqualification for registration

F770 4 (1) Regulations may provide for a person to be disqualified for registration for child minding or providing day care **[**F771 in Wales**]** .

(2) The regulations may, in particular, provide for a person to be disqualified where—

(a) he is included in the list kept under section 1 of the M78 Protection of Children Act 1999;

[F772 (b) he is subject to a direction under section 142 of the Education Act 2002, given on the grounds that he is unsuitable to work with children **[**F773 or on grounds relating to his health**]** ;**]**

[F774 (ba) he is barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006);**]**

(c) an order of a prescribed kind has been made at any time with respect to him;

(d) an order of a prescribed kind has been made at any time with respect to any child who has been in his care;

(e) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;

(f) he has at any time been refused registration under Part X or Part XA **[**F775, or Part 3 of the Childcare Act 2006,**]** or any prescribed enactment or had any such registration cancelled;

(g) he has been convicted of any offence of a prescribed kind, or has been F776 ... discharged absolutely or conditionally for any such offence;

[F777 (ga) he has been given a caution in respect of any offence of a prescribed kind;**]**

(h) he has at any time been disqualified from fostering a child privately;

(j) a prohibition has been imposed on him at any time under section 69, section 10 of the M79 Foster Children (Scotland) Act 1984 or any prescribed enactment;

(k) his rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.

(3) Regulations may provide for a person who lives—

(a) in the same household as a person who is himself disqualified for registration for child minding or providing day care **[**F778 in Wales**]** ; or

(b) in a household at which any such person is employed,

to be disqualified for registration for child minding or providing day care **[**F778 in Wales**]** .

[F779 (3A) Regulations under this paragraph may provide for a person not to be disqualified for registration **[**F780 (and may in particular provide for a person not to be disqualified for registration for the purposes of sub-paragraphs (4) and (5))**]** by reason of any fact which would otherwise cause him to be disqualified if—

(a) he has disclosed the fact to **[**F781 the Assembly**]** , and

(b) **[**F781 the Assembly**]** has consented in writing F782 ... and has not withdrawn that consent.**]**

(4) A person who is disqualified for registration for providing day care shall not provide day care **[**F783 in Wales**]** , or be **[**F784 directly**]** concerned in the management of, F785 ... any provision of day care **[**F786 in Wales**]** .

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(5) No person shall employ, in connection with the provision of day care **[**F787in Wales**]** , a person who is disqualified for registration for providing day care **[**F787in Wales**]** .

[F788(6) In this paragraph—

"caution" includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998;

"enactment" means any enactment having effect, at any time, in any part of the United Kingdom.**]**

[F789(7) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this paragraph.**]**

Annotations:

Amendments (Textual)

F770 Sch. 9A para. 4 inserted ((E.) 16.3.2001 for specified purposes otherwise 2.7.2001 and (W.) 1.7.2001 for specified purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/1210, **art. 2(b)**; S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F771 Words in Sch. 9A para. 4(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(4)(a)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F772 Sch. 9A para. 4(2)(b) substituted (31.3.2003 for W. and 1.6.2003 for E.) by 2002 c. 32, ss. 215(1), 216(4), Sch. 21 para. 9 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, **art. 3**

F773 Words in Sch. 9A para. 4(2)(b) inserted (20.12.2006 for E. and 31.1.2008 for W.) by Childcare Act 2006 (c. 21), **s. 102(2)(a)**; S.I. 2006/3360, **art. 2(f)**; S.I. 2008/17, **art. 2(d)**

F774 Sch. 9A para. 4(2)(ba) inserted (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 9 para. 1** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch.

F775 Words in Sch. 9A para. 4(2)(f) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(4)(b)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F776 Words in Sch. 9A para. 4(2)(g) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 332, Sch. 32 Pt. 1 para. 61(2), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(24) (subject to art. 2(2), Sch. 2)

F777 Sch. 9A para. 4(2)(ga) inserted (20.12.2006 for E. and 31.1.2008 for W.) by Childcare Act 2006 (c. 21), **s. 102(2)(b)**; S.I. 2006/3360, **art. 2(f)**; S.I. 2008/17, **art. 2(d)**

F778 Words in Sch. 9A para. 4(3) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, {Sch. 2 para. 18(4(c)}; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F779 Sch. 9A para. 4(3A) inserted (1.10.2002 for E. and 19.12.2002 for W.) by 2002 c. 32, s. 152, **Sch. 13 para. 6** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/ 3185, art. 4, Sch. Pt. 1

F780 Words in Sch. 9A para. 4(3A) inserted (1.3.2005 for E. and otherwise prosp.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 5(a)**; S.I. 2005/394, **art. 2(1)(k)**

F781 Words in Sch. 9A para. 4 substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F782 Words in Sch. 9A para. 4(3A)(b) repealed (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 5(b), **Sch. 5 Pt. 2**; S.I. 2005/394, **art. 2(1)(k)(m)**; S.I. 2006/885, **art. 2(2)(h)**

F783 Words in Sch. 9A para. 4(4) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(4)(d)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F784 Words in Sch. 9A para. 4(4) inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 8(a)**; S.I. 2005/394, **art. 2(1)(k)**; S.I. 2006/885, {art. 2(2(c)}

F785 Words in Sch. 9A para. 4(4) repealed (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 4(8)(b), **Sch. 5 Pt. 2**; S.I. 2005/394, **art. 2(1)(k)(m)**; S.I. 2006/885, **art. 2(2)(c)(h)**

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F786 Words in Sch. 9A para. 4(4) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(4)(d)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F787 Words in Sch. 9A para. 4(5) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(4)(e)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F788 Sch. 9A para. 6 substituted (20.12.2006 for E. and 31.1.2008 for W.) by Childcare Act 2006 (c. 21), **s. 102(3)**; S.I. 2006/3360, **art. 2(f)**; S.I. 2008/17, **art. 2(d)**

F789 Sch. 9A para. 4(7) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 304, **Sch. 32 Pt. 1 para. 61(3)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(24) (subject to art. 2(2), Sch. 2)

Marginal Citations

M78 1999 c. 14.

M79 1984 c. 56.

F790 5 (1) If any person—

(a) acts as a child minder **[**F791 in Wales**]** at any time when he is disqualified for registration for child minding **[**F792 in Wales**]** ; or

(b) contravenes **[**F793 sub-paragraph (4) or (5)**]** of paragraph 4,

he shall be guilty of an offence.

[F794 (2) A person who contravenes sub-paragraph (4) of paragraph 4 shall not be guilty of an offence under this paragraph if—

(a) he is disqualified for registration by virtue only of regulations made under sub-paragraph (3) of paragraph 4, and

(b) he proves that he did not know, and had no reasonable grounds for believing, that he was living in the same household as a person who was disqualified for registration or in a household in which such a person was employed.**]**

(3) Where a person contravenes sub-paragraph (5) of paragraph 4, he shall not be guilty of an offence under this paragraph if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

Annotations:

Amendments (Textual)

F790 Sch. 9A para. 5 inserted ((W.) 1.7.2001 for certain purposes otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, **art. 2**;S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F791 Words in Sch. 9A para. 5(1)(a) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(5)(a)(i)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F792 Words in Sch. 9A para. 5(1)(a) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(5)(a)(ii)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F793 Words in Sch. 9A para. 5(1)(b) substituted (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(5)(b)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F794 Sch. 9A para. 5(2) substituted (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(5)(c)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

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[[F795]Provision of day care: unincorporated associations

Annotations:

Amendments (Textual)

F795 Sch. 9A para. 5A inserted (1.3.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 9**; S.I. 2005/394, **art. 2(1)(k)**; S.I. 2006/885, **art. 2(c)**

5A (1) References in Part XA to a person, so far as relating to the provision of day care, include an unincorporated association.

(2) Proceedings for an offence under Part XA which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).

(3) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.

(4) In proceedings for an offence under Part XA brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure) apply as they do in relation to a body corporate.

(5) A fine imposed on an unincorporated association on its conviction of an offence under Part XA is to be paid out of the funds of the association.

(6) If an offence under Part XA committed by an unincorporated association is shown—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the association is guilty of the offence and liable to proceeded against and punished accordingly.**]**

Certificates of registration

[F796]6 (1) If an application for registration is granted, **[**[F797]the Assembly**]** shall give the applicant a certificate of registration.

(2) A certificate of registration shall give prescribed information about prescribed matters.

(3) Where, due to a change of circumstances, any part of the certificate requires to be amended, **[**[F798]the Assembly**]** shall issue an amended certificate.

(4) Where **[**[F799]the Assembly**]** is satisfied that the certificate has been lost or destroyed, **[**[F800]the Assembly**]** shall issue a copy, on payment by the registered person of any prescribed fee.

(5) For the purposes of Part XA, a person is—

(a) registered for providing child minding **[**[F801]in Wales**]** ; or

(b) registered for providing day care on any premises **[**[F802]in Wales**]** ,

if a certificate of registration to that effect is in force in respect of him.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Amendments (Textual)

F796 Sch. 9A para. 6 inserted ((E.) 16.3.2001 for specified purpsoes otherwise 2.7.2001 and (W.) 1.7.2001 for specified purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/1210, **art. 2(b)**; S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F797 Words in Sch. 9A para. 6(1) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F798 Words in Sch. 9A para. 6(3) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S. I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F799 Words in Sch. 9A para. 6(4) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S. I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F800 Words in Sch. 9A para. 6(4) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F801 Words in Sch. 9A para. 6(5)(a) substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(6)(a)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F802 Words in Sch. 9A para. 6(5)(b) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(6)(b)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F803... fees

Annotations:

Amendments (Textual)

F803 Sch. 9A: words in heading before para. 7 repealed (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 48, 64, Sch. 4 para. 4(2)(a), **Sch. 5 Pt. 2**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)(h)**

F804 7 Regulations may require registered persons to pay to **[**F805 the Assembly**][**F806, at or by the prescribed times, fees of the prescribed amounts in respect of the discharge by **[**F807 the Assembly**]** of its functions under Part XA.**]**

Annotations:

Amendments (Textual)

F804 Sch. 9A para. 7 inserted ((E.) 16.3.2001 for specified purposes otherwise 2.7.2001 and (W.) 1.7.2001 for specified purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/1210, **art. 2(b)**; S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F805 Words in Sch. 9A para. 7 substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

F806 Words in Sch. 9A para. 7 substituted (3.10.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 48, **Sch. 4 para. 4(2)(b)**; S.I. 2005/2298, **art. 2(1)** (subject to art. 2(2)); S.I. 2006/885, **art. 2(2)(c)**

F807 Words in Sch. 9A para. 7 substituted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 103, 109, **Sch. 2 para. 6**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

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Co-operation between authorities

F808 8 (1) F809 . . . . . .

(2) Where it appears to the Assembly that any local authority in Wales could, by taking any specified action, help in the exercise of any of its functions under Part XA, the Assembly may request the help of that authority specifying the action in question.

(3) An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.**]**

Annotations:

Amendments (Textual)

F808 Sch. 9A para. 8 inserted ((W.) 1.7.2001 for certain purposes otherwise 1.4.2002 and (E.) 2.7.2001) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/2041, **art. 2(1)(b)** (with transitional provisions and savings in art. 3); S.I. 2001/2190, **art. 2**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)

F809 Words in Sch. 9A para. 8(1) omitted (1.9.2008) by virtue of the Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(7)** and repealed (1.9.2008 for E. and otherwise prosp.) by Childcare Act 2006 (c. 21), ss. 103(2), 109, **Sch. 3 Pt. 2**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

SCHEDULE 10

Section 88.

AMENDMENTS OF ADOPTION LEGISLATION

PART I

AMENDMENTS OF ADOPTION ACT 1976 (C. 36)

1 F810 . . . . . .

Annotations:

Amendments (Textual)

F810 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

2 F811 . . . . . .

Annotations:

Amendments (Textual)

F811 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

3 F812 . . . . . .

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Annotations:

Amendments (Textual)

F812 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

4 **F813** . . . . . .

Annotations:

Amendments (Textual)

F813 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

5 **F814** . . . . . .

Annotations:

Amendments (Textual)

F814 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

6 **F815** . . . . . .

Annotations:

Amendments (Textual)

F815 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

7 **F816** . . . . . .

Annotations:

Amendments (Textual)

F816 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

8 **F817** . . . . . .

Annotations:

Amendments (Textual)

F817 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

9 **F818** . . . . . .

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Annotations:

Amendments (Textual)

F818 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

10 **F819** . . . . . .

Annotations:

Amendments (Textual)

F819 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

11 **F820** . . . . . .

Annotations:

Amendments (Textual)

F820 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

12 **F821** . . . . . .

Annotations:

Amendments (Textual)

F821 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

13 **F822** . . . . . .

Annotations:

Amendments (Textual)

F822 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

14 **F823** . . . . . .

Annotations:

Amendments (Textual)

F823 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

15 **F824** . . . . . .

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Annotations:

Amendments (Textual)

F824 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

16 **F825** . . . . . .

Annotations:

Amendments (Textual)

F825 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

17 **F826** . . . . . .

Annotations:

Amendments (Textual)

F826 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

18 **F827** . . . . . .

Annotations:

Amendments (Textual)

F827 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

19 **F828** . . . . . .

Annotations:

Amendments (Textual)

F828 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

20 **F829** . . . . . .

Annotations:

Amendments (Textual)

F829 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

21 **F830** . . . . . .

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Annotations:

Amendments (Textual)

F830 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

22 **F831** . . . . . .

Annotations:

Amendments (Textual)

F831 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

23 **F832** . . . . . .

Annotations:

Amendments (Textual)

F832 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

24 **F833** . . . . . .

Annotations:

Amendments (Textual)

F833 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

25 **F834** . . . . . .

Annotations:

Amendments (Textual)

F834 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

26 **F835** . . . . . .

Annotations:

Amendments (Textual)

F835 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

27 **F836** . . . . . .

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Annotations:

Amendments (Textual)

F836 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

28 F837 . . . . . .

Annotations:

Amendments (Textual)

F837 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

F838 29 . . . . . .

Annotations:

Amendments (Textual)

F838 Sch. 10 para. 29 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 para. 97, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

30 F839 . . . . . .

Annotations:

Amendments (Textual)

F839 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

31 F840 . . . . . .

Annotations:

Amendments (Textual)

F840 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

PART II

AMENDMENTS OF ADOPTION (SCOTLAND) ACT 1978 (C. 28)

32 **[**F841In section 11 (restrictions on arranging of adoptions and placing of children) for subsection (2) there shall be substituted—

. . . . . .

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Annotations:

Amendments (Textual)

F841 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I182 Sch. 10 Pt. II para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

33 **[**F842For section 14(1) (adoption by married couple) there shall be substituted—

. . . . . .

Annotations:

Amendments (Textual)

F842 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I183 Sch. 10 Pt. II para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

34 **[**F843In section 16(1)(a) (parental agreement) for the words from "in England" to "revoked", in the second place where it occurs, there shall be substituted—

. . . . . .

Annotations:

Amendments (Textual)

F843 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I184 Sch. 10 Pt. II para. 34 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

35 **[**F844In section 18(5) (effect of order freeing child for adoption) for the words "and (3)" there shall be substituted "to (4)".**]**

Annotations:

Amendments (Textual)

F844 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I185 Sch. 10 Pt. II para. 35 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

36 **[**F845In section 20(3)(c) (revocation of section 18 order) the words "section 12(3)(b) of the Adoption Act 1976 or of" shall cease to have effect.**]**

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Annotations:

Amendments (Textual)

F845 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I186 Sch. 10 Pt. II para. 36 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

37 **[**F846For section 21 (transfer of parental rights and duties between adoption agencies) there shall be substituted—

. . . . . .

Annotations:

Amendments (Textual)

F846 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I187 Sch. 10 Pt. II para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

38 **[**F847In section 22(4) (notification to local authority of adoption application) for the word "receives" there shall be substituted "receive".**]**

Annotations:

Amendments (Textual)

F847 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I188 Sch. 10 Pt. II para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

39 **[**F848In section 29 (return of child taken away in breach of section 27 or 28) after the word "1976" in each place where it occurs there shall be inserted "or Article 28 or 29 of the Adoption (Northern Ireland) Order 1987 M80".**]**

Annotations:

Amendments (Textual)

F848 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I189 Sch. 10 Pt. II para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Marginal Citations

M80 S.I. 1987/2203 (N.I. 22).

40 **[**F849In section 32 (meaning of "protected child"), at the end of subsection (2) there shall be added "or Article 33 of the Adoption (Northern Ireland) Order 1987".**]**

Annotations:

Amendments (Textual)

F849 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I190 Sch. 10 Pt. II para. 40 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

41 **[**F850In section 45 (adopted children register)—

. . . . . .

Annotations:

Amendments (Textual)

F850 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I191 Sch. 10 Pt. II para. 41 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

42 **[**F851In section 49 (adoption of children abroad)—

. . . . . .

Annotations:

Amendments (Textual)

F851 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I192 Sch. 10 Pt. II para. 42 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

43 **[**F852In section 50(1) (restriction on removal of children for adoption outside Great Britain) after the word "1976" there shall be inserted "or Article 57 of the Adoption (Northern Ireland) Order 1987".**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Amendments (Textual)

F852 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I193 Sch. 10 Pt. II para. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

44 **[**F853In section 53(1) (effect of determination and orders made in England and Wales and overseas in adoption proceedings)—

. . . . . .

Annotations:

Amendments (Textual)

F853 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I194 Sch. 10 Pt. II para. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

45 **[**F854In section 54(b) (evidence of adoption in Northern Ireland) for the words from "section 23(4)" to "in force" there shall be substituted "Article 63(1) of the Adoption (Northern Ireland) Order 1987".**]**

Annotations:

Amendments (Textual)

F854 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I195 Sch. 10 Pt. II para. 45 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

46 **[**F855In section 65(1) (interpretation)—

. . . . . .

Annotations:

Amendments (Textual)

F855 Sch. 10 Pt. 2 repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **Sch. 3**; S.S.I. 2009/267, **art. 2**

Commencement Information

I196 Sch. 10 Pt. II para. 46 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 11

Section 92.

JURISDICTION

Annotations:

Modifications etc. (not altering text)

C90 Sch. 11 applied (6.4.2007) by Childcare Act 2006 (c. 21), **ss. 79(4)**, 109; S.I. 2007/1019, **art. 4**

C91 Sch. 11 applied by Childcare Act 2006 (c. 21), s. 98F(5) (as inserted (12.1.2010) by 2009 c. 22, **ss. 199**, 269(2)(b))

PART I

GENERAL

Annotations:

Modifications etc. (not altering text)

C92 Sch. 11 Pt. I applied (1.8.1991) by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), **ss. 39(3)**, 43(2); S.I. 1991/1400, **art. 2(2)**
Sch. 11 Pt. I applied (1.1.1994) by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), **s. 30(8)(a)**; S.I. 1994/1776, **art. 2(1)**

C93 Sch. 11 Pt. I applied by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), **ss. 30(8)(a)**, 39(3), 43(2)

Commencement of proceedings

1 (1) The Lord Chancellor may **[**F856, after consulting the Lord Chief Justice,**]** by order specify proceedings under this Act or **[**F857the Adoption and Children Act 2002**]** which may only be commenced in—

(a) a specified level of court;

(b) a court which falls within a specified class of court; or

(c) a particular court determined in accordance with, or specified in, the order.

(2) The Lord Chancellor may **[**F856, after consulting the Lord Chief Justice,**]** by order specify circumstances in which specified proceedings under this Act or **[**F857the Adoption and Children Act 2002**]** (which might otherwise be commenced elsewhere) may only be commenced in—

(a) a specified level of court;

(b) a court which falls within a specified class of court; or

(c) a particular court determined in accordance with, or specified in, the order.

[F858(2A) Sub-paragraphs (1) and (2) shall also apply in relation to proceedings—

[F859(a) under section 55A of the M81Family Law Act 1986 (declarations of parentage); or**]**

(b) which are to be dealt with in accordance with an order made under section 45 **[**F860 of the M82Child Support Act 1991**]** (jurisdiction of courts in certain proceedings under that Act)**]**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The Lord Chancellor may **[**F856, after consulting the Lord Chief Justice,**]** by order make provision by virtue of which, where specified proceedings with respect to a child under—

(a) this Act;

(b) **[**F857the Adoption and Children Act 2002**]**;

(bb) section 20 (appeals) F861. . . of the Child Support Act 1991; or

(c) the High Court's inherent jurisdiction with respect to children,

have been commenced in or transferred to any court (whether or not by virtue of an order under this Schedule), any other specified family proceedings which may affect, or are otherwise connected with, the child may, in specified circumstances, only be commenced in that court.

(4) A class of court specified in an order under this Schedule may be described by reference to a description of proceedings and may include different levels of court.

Annotations:

Amendments (Textual)

F856 Words in Sch. 11 para. 1 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 210(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F857 Words in Sch. 11 para. 1 substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 75 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F858 Sch. 11 para. 1(2A) inserted (17.6.1992) by Child Support Act 1991 (c. 48, SIF 20), **s. 45(4)** (with saving in s. 9(2)); S.I. 1992/1431, art. 2, **Sch.**

F859 Sch. 11 Pt. I para. 1(2A)(a) substituted (1.4.2001) by 2000 c. 19, s. 83(5), **Sch. 8 para. 10(2)(a)** (with s. 83(6)); S.I. 2001/774, **art. 2(c)**

F860 Words in Sch. 11 Pt. I para. 1(2A)(b) substituted (1.4.2001) by 2000 c. 19, s. 83(5), **Sch. 8 para. 10(2)(b)**; S.I. 2001/774, **art. 2(c)**

F861 Words in Sch. 11 Pt. I para. 1(3)(bb) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

Commencement Information

I197 Sch. 11 Pt. I para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M81 1986 c. 55.

M82 1991 c. 48

Transfer of proceedings

2 (1) The Lord Chancellor may **[**F862, after consulting the Lord Chief Justice,**]** by order provide that in specified circumstances the whole, or any specified part of, specified proceedings to which this paragraph applies shall be transferred to—

(a) a specified level of court;

(b) a court which falls within a specified class of court; or

(c) a particular court determined in accordance with, or specified in, the order.

(2) Any order under this paragraph may provide for the transfer to be made at any stage, or specified stage, of the proceedings and whether or not the proceedings, or any part of them, have already been transferred.

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(3) The proceedings to which this paragraph applies are—

(a) any proceedings under this Act;

(b) any proceedings under **[**F863the Adoption and Children Act 2002**]**;

[F864(ba) any proceedings under section 55A of the M83Family Law Act 1986**]**

(bb) **[**F865any proceedings under**]** section 20 (appeals) F866. . . of the Child Support Act 1991;

(c) any other proceedings which—

(i) are family proceedings for the purposes of this Act, other than proceedings under the inherent jurisdiction of the High Court; and

(ii) may affect, or are otherwise connected with, the child concerned.

(4) Proceedings to which this paragraph applies by virtue of sub-paragraph (3)(c) may only be transferred in accordance with the provisions of an order made under this paragraph for the purpose of consolidating them with proceedings under—

(a) this Act;

(b) **[**F863the Adoption and Children Act 2002**]**; or

(c) the High Court's inherent jurisdiction with respect to children.

(5) An order under this paragraph may make such provision as the Lord Chancellor thinks appropriate **[**F867, after consulting the Lord Chief Justice,**]** for excluding proceedings to which this paragraph applies from the operation of any enactment which would otherwise govern the transfer of those proceedings, or any part of them.

Annotations:

Amendments (Textual)

F862 Words in Sch. 11 para. 2(1) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4). s. 15(1), {Sch. 4 para. 210(3)(a)}; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F863 Words in Sch. 11 para. 2 substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 75 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F864 Sch. 11 Pt. I para. 2(3)(ba) inserted (1.4.2001) by 2000 c. 19, s. 83(5), **Sch. 8 para. 10(3)(a)** (with s. 83(6)); S.I. 2001/774, **art. 2(c)**

F865 Words in Sch. 11 Pt. I para. 2(3)(bb) inserted (1.4.2001) by 2000 c. 19, s. 83(5), **Sch. 8 para. 10(3)(b)** (with s. 83(6)); S.I. 2001/774, **art. 2(c)**

F866 Words in Sch. 11 Pt. I para. 2(3)(bb) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

F867 Words in Sch. 11 para. 2(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 210(3)(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Commencement Information

I198 Sch. 11 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M83 1986 c. 55.

Hearings by single justice

3 (1) In such circumstances as the Lord Chancellor may **[**F868, after consulting the Lord Chief Justice,**]** by order specify—

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(a) the jurisdiction of a magistrates' court to make an emergency protection order;

(b) any specified question with respect to the transfer of specified proceedings to or from a magistrates' court in accordance with the provisions of an order under paragraph 2,

may be exercised by a single justice.

(2) Any provision made under this paragraph shall be without prejudice to any other enactment or rule of law relating to the functions which may be performed by a single justice of the peace.

Annotations:

Amendments (Textual)

F868 Words in Sch. 11 para. 3(1) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 210(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Commencement Information

I199 Sch. 11 Pt. I para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

General

4 (1) For the purposes of this Schedule—

(a) the commencement of proceedings under this Act includes the making of any application under this Act in the course of proceedings (whether or not those proceedings are proceedings under this Act); and

(b) there are three levels of court, that is to say the High Court, any county court and any magistrates' court.

(2) In this Schedule "specified" means specified by an order made under this Schedule.

(3) Any order under paragraph 1 may make provision as to the effect of commencing proceedings in contravention of any of the provisions of the order.

(4) An order under paragraph 2 may make provision as to the effect of a failure to comply with any of the provisions of the order.

(5) An order under this Schedule may—

(a) make such consequential, incidental or transitional provision as the Lord Chancellor considers expedient **[**F869, after consulting the Lord Chief Justice,**]** , including provision amending any other enactment so far as it concerns the jurisdiction of any court or justice of the peace;

(b) make provision for treating proceedings which are—

(i) in part proceedings of a kind mentioned in paragraph (a) or (b) of paragraph 2(3); and

(ii) in part proceedings of a kind mentioned in paragraph (c) of paragraph 2(3),

as consisting entirely of proceedings of one or other of those kinds, for the purposes of the application of any order made under paragraph 2.

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[F870(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this Part of this Schedule.**]**

Annotations:

Amendments (Textual)

F869 Words in Sch. 11 para. 4(5)(a) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 210(5)(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F870 Sch. 11 para. 4(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 210(5)(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

Commencement Information

I200 Sch. 11 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

PART II

CONSEQUENTIAL AMENDMENTS

The Administration of Justice Act 1964 (c. 42)

5 In section 38 of the Administration of Justice Act 1964 (interpretation), the definition of "domestic court", which is spent, shall be omitted.

Annotations:

Commencement Information

I201 Sch. 11 Pt. II para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

6 In the Domestic Proceedings and Magistrates' Courts Act 1978—

(a) for the words "domestic proceedings", whereverever they occur in **[**F871section**]** 88(1), there shall be substituted "family proceedings";

(b) for the words "domestic court panel", wherever they occur in section 16(5)(b), there shall be substituted "family panel".

Annotations:

Amendments (Textual)

F871 Word in Sch. 11 para. 6(a) substituted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 60(2)**(with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(a)**

Commencement Information

I202 Sch. 11 Pt. II para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The Justices of the Peace Act 1979 (c. 55)

F872 7 . . . . . .

Annotations:

Amendments (Textual)

F872 Sch. 11 Pt. II para. 7 repealed (19.6.1997) by 1997 c. 25, ss. 73(1)(3), 74(1), Sch. 4 Pt. II, para. 7(2)(f)(ii), **Sch. 6**, Pt.I

The Magistrates' Courts Act 1980 (c. 43)

8 In the Magistrates' Courts Act 1980—

(a) in section 65(1) (meaning of family proceedings), the following paragraph shall be inserted after paragraph (m)—

"(n) the Children Act 1989";

(b) in section 65(2)(a) for the words "and (m)" there shall be substituted " (m) and (n) ";

(c) for the words "domestic proceedings", wherever they occur in sections 65(1), (2) and (3), F873. . ., 67(1), (2) and (7), 69(1), (2), (3) and (4), 70(2) and (3), 71(1) and (2), 72(1), 73, 74(1), 121(8) and 150(1), there shall be substituted " family proceedings ";

(d) F874 . . . . . .

(e) F875 . . . . . .

(f) F876 . . . . . .

(g) F877 . . . . . .

Annotations:

Amendments (Textual)

F873 Words in Sch. 11 para. 8(c) repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/1920, **art. 3(c)**

F874 Sch. 11 para. 8(d)-(g) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(3), **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

F875 Sch. 11 para. 8(d)-(g) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(3), **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

F876 Sch. 11 para. 8(d)-(g) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(3), **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

F877 Sch. 11 para. 8(d)-(g) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(3), **Sch. 10**; S.I. 2005/910, **art. 3(aa)**

Commencement Information

I203 Sch. 11 Pt. II para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The ***[***[F878]*Senior Courts Act 1981****]*** *(c. 54)*

Annotations:

Amendments (Textual)

F878 Sch. 11 para. 9 cross-heading: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

9 In paragraph 3 of Schedule 1 to the **[**[F879]Senior Courts Act 1981**]** (distribution of business to the Family Division of the High Court), the following sub-paragraph shall be added at the end—

"(e) proceedings under the Children Act 1989".

Annotations:

Amendments (Textual)

F879 Sch. 11 para. 9: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

Commencement Information

I204 Sch. 11 Pt. II para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Matrimonial and Family Proceedings Act 1984 (c. 42)

10 In section 44 of the Matrimonial and Family Proceedings Act 1984 (domestic proceedings in magistrates' courts to include applications to alter maintenance agreements) for the words "domestic proceedings", wherever they occur, there shall be substituted " family proceedings" ".

Annotations:

Commencement Information

I205 Sch. 11 Pt. II para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828 art. 3(2))

The Insolvency Act 1986 (c. 45)

11 (1) In section 281(5)(b) of the Insolvency Act 1986 (discharge not to release bankrupt from bankruptcy debt arising under any order made in family proceedings or in domestic proceedings), the words "or in domestic proceedings" shall be omitted.

(2) In section 281(8) of that Act (interpretation), for the definitions of "domestic proceedings" and "family proceedings" there shall be substituted—

"family proceedings" means—

(a) family proceedings within the meaning of the Magistrates' Courts Act 1980 and any proceedings which would be such proceedings but for section 65(1)(ii) of that Act (proceedings for variation of order for periodical payments); and

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(b) family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.

Annotations:

Commencement Information
I206 Sch. 11 Pt. II para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 12

Section 108(4).

MINOR AMENDMENTS

The Custody of Children Act 1891 (c. 3)

1 The Custody of Children Act 1891 (which contains miscellaneous obsolete provisions with respect to the custody of children) shall cease to have effect.

Annotations:

Commencement Information
I207 Sch. Pt. para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Children and Young Persons Act 1933 (c. 12)

2 In section 1(2)(a) of the Children and Young Persons Act 1933 (cruelty to persons under sixteen), after the words “young person" there shall be inserted “ , or the legal guardian of a child or young person," ”.

Annotations:

Commencement Information
I208 Sch. 12 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

3 Section 40 of that Act shall cease to have effect.

Annotations:

Commencement Information
I209 Sch. 12 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Education Act 1944 (c. 31)

4 F880 . . . . . .

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Annotations:

Amendments (Textual)

F880 Sch. 12 para. 4 omitted (1.10.1993) by virtue of 1993 c. 35, s. 307(1), **Sch. 19 para. 154** and repealed (1.4.1994) by s. 307(3), Sch. 21 Pt.I of the same 1993 Act; S.I. 1993/1975, art. 9, **Sch. 1**; S.I. 1993/3106, art. 4, **Sch.1**

The Marriage Act 1949 (c. 76)

5 (1) In section 3 of the Marriage Act 1949 (consent required to the marriage of a child by common licence or superintendent registrar's certificate), in subsection (1) for the words "the Second Schedule to this Act" there shall be substituted " subsection (1A) of this section" ".

(2) After that subsection there shall be inserted—

"(1A) The consents are—

(a) subject to paragraphs (b) to (d) of this subsection, the consent of—

(i) each parent (if any) of the child who has parental responsibility for him; and

(ii) each guardian (if any) of the child;

(b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);

(c) where a care order is in force with respect to the child, the consent of the local authority designated in the order (in addition to the consents mentioned in paragraph (a) of this subsection);

(d) where neither paragraph (b) nor (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).

(1B) In this section "guardian of a child", "parental responsibility", "residence order" and "care order" have the same meaning as in the Children Act 1989."

Annotations:

Commencement Information

I210 Sch. 12 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Births and Deaths Registration Act 1953 (c. 20)

6 (1) Sections 10 and 10A of the Births and Deaths Registration Act 1953 (registration of father, and re-registration, where parents not married) shall be amended as follows.

(2) In sections 10(1) and 10A(1) for paragraph (d) there shall be substituted—

"(d) at the request of the mother or that person on production of—

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(i) a copy of a parental responsibility agreement made between them in relation to the child; and

(ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with section 4 of the Children Act 1989 and has not been brought to an end by an order of a court; or

(e) at the request of the mother or that person on production of—

(i) a certified copy of an order under section 4 of the Children Act 1989 giving that person parental responsibility for the child; and

(ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or

(f) at the request of the mother or that person on production of—

(i) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires that person to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and

(ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court; or

(g) at the request of the mother or that person on production of—

(i) a certified copy of any of the orders which are mentioned in subsection (1A) of this section which has been made in relation to the child; and

(ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end or discharged by an order of a court.”

(3) After sections 10(1) and 10A(1) there shall be inserted—

“(1A) The orders are—

(a) an order under section 4 of the Family Law Reform Act 1987 that that person shall have all the parental rights and duties with respect to the child;

(b) an order that that person shall have custody or care and control or legal custody of the child made under section 9 of the Guardianship of Minors Act 1971 at a time when such an order could only be made in favour of a parent;

(c) an order under section 9 or 11B of that Act which requires that person to make any financial provision in relation to the child;

(d) an order under section 4 of the Affiliation Proceedings Act 1957 naming that person as putative father of the child.”

(4) In section 10(2) for the words “or (d)" there shall be substituted “ to (g)" ”.

(5) In section 10(3) for the words from “ “relevant order"" to the end there shall be substituted

““parental responsibility agreement” has the same meaning as in the Children Act 1989”.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(6) In section 10A(2) in paragraphs (b) and (c) for the words "paragraph (d)" in both places where they occur there shall be substituted " any of paragraphs (d) to (g)" ".

Annotations:

Commencement Information

I211 Sch. 12 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Army Act 1955 (c. 18)

7 In section 151 of the Army Act 1955 (deductions from pay for maintenance of wife or child), in subsection (1A)(a) for the words "in the care of a local authority in England or Wales" there shall be substituted " being looked after by a local authority in England or Wales (within the meaning of the Children Act 1989)" ".

Annotations:

Commencement Information

I212 Sch. 12 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F881 8 . . . . . .

Annotations:

Amendments (Textual)

F881 Sch. 12 para. 8 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

The Air Force Act 1955 (c. 19)

9 Section 151(1A) of the Air Force Act 1955 (deductions from pay for maintenance of wife or child) shall have effect subject to the amendment that is set out in paragraph 7 in relation to section 151(1A) of the Army Act 1955.

Annotations:

Commencement Information

I213 Sch. 12 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F882 10 . . . . . .

Annotations:

Amendments (Textual)

F882 Sch. 12 para. 10 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch (with art. 3(1))

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

The Sexual Offences Act 1956 (c. 69)

11 F883 . . . . . .

Annotations:

Amendments (Textual)

F883 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Commencement Information

I214 Sch. 12 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

12 F884 . . . . . .

Annotations:

Amendments (Textual)

F884 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Commencement Information

I215 Sch. 12 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

13 F885 . . . . . .

Annotations:

Amendments (Textual)

F885 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Commencement Information

I216 Sch. 12 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

14 F886 . . . . . .

Annotations:

Amendments (Textual)

F886 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Commencement Information

I217 Sch. 12 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

15 Section 38 of that Act (power of court to divest person of authority over girl or boy in case of incest) shall cease to have effect.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Commencement Information

I218 Sch. 12 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

16 F887 . . . . . .

Annotations:

Amendments (Textual)

F887 Sch. 12 para. 16 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Commencement Information

I219 Sch. 12 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

17 After section 46 of that Act there shall be inserted—

"46A In this Act "parental responsibility" has the same meaning as in the Children Act 1989."

Annotations:

Commencement Information

I220 Sch. 12 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Naval Discipline Act 1957 (c. 53)

F888 18 . . . . . .

Annotations:

Amendments (Textual)

F888 Sch. 12 para. 18 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

The Children and Young Persons Act 1963 (c. 37)

19 Section 3 of the Children and Young Persons Act 1963 (children and young persons beyond control) shall cease to have effect.

Annotations:

Commencement Information

I221 Sch. 12 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

The Children and Young Persons Act 1969 (c. 54)

20 In section 5 of the Children and Young Persons Act 1969 (restrictions on criminal proceedings for offences by young persons), in subsection (2), for the words "section 1 of this Act" there shall be substituted " Part IV of the Children Act 1989" ".

Annotations:

Commencement Information

I222 Sch. 12 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F889 21 . . . . . .

Annotations:

Amendments (Textual)

F889 Sch. 12 para. 21 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**.

F890 22 . . . . . .

Annotations:

Amendments (Textual)

F890 Sch. 12 para. 22 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F891 23 . . . . . .

Annotations:

Amendments (Textual)

F891 Sch. 12 para. 23 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F892 24 . . . . . .

Annotations:

Amendments (Textual)

F892 Sch. 12 para. 24 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**.

F893 25 . . . . . .

Annotations:

Amendments (Textual)

F893 Sch. 12 para. 25 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 31, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I223 Sch. 12 para. 25 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

26 For section 23 of that Act (remand to care of local authorities etc.) there shall be substituted—

"23 (1) Where a court—

(a) remands or commits for trial a child charged with homicide or remands a child convicted of homicide; or

(b) remands a young person charged with or convicted of one or more offences or commits him for trial or sentence,

and he is not released on bail, then, unless he is a young person who is certified by the court to be of unruly character, the court shall remand him to local authority accommodation.

(2) A court remanding a person to local authority accommodation shall designate the authority who are to receive him and that authority shall be the authority in whose area it appears to the court that—

(a) he resides; or

(b) the offence or one of the offences was committed.

(3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.

(4) The court shall not certify a young person as being of unruly character unless—

(a) he cannot safely be remanded to local authority accommodation; and

(b) the conditions prescribed by order made by the Secretary of State under this subsection are satisfied in relation to him.

(5) Where the court certifies that a young person is of unruly character, it shall commit him—

(a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and

(b) to a prison, if it has not been so notified.

(6) Where a young person is remanded to local authority accommodation, a court may, on the application of the designated authority, certify him to be of unruly character in accordance with subsection (4) of this section (and on so doing he shall cease to be remanded to local authority accommodation and subsection (5) of this section shall apply).

(7) For the purposes of subsection (6) of this section,

"a court" means—

(a) the court which remanded the young person; or

(b) any magistrates' court having jurisdiction in the place where that person is for the time being,

and in this section "court" and "magistrates' court" include a justice.

(8) This section has effect subject to—

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(a) section 37 of the Magistrates' Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and

(b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),

but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours."

Annotations:

Commencement Information

I224 Sch. 12 para. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

27 (1) In section 32 of that Act (detention of absentees), for subsection (1A) there shall be substituted the following subsections—

"(1A) If a child or young person is absent, without the consent of the responsible person—

(a) from a place of safety to which he has been taken under section 16(3) of this Act; or

(b) from local authority accommodation—

(i) in which he is required to live under section 12AA of this Act; or

(ii) to which he has been remanded under section 23(1) of this Act,

he may be arrested by a constable anywhere in the United Kingdom or Channel Islands without a warrant.

(1B) A person so arrested shall be conducted to—

(a) the place of safety;

(b) the local authority accommodation; or

(c) such other place as the responsible person may direct,

at the responsible person's expense.

(1C) In this section "the responsible person" means the person who made the arrangements under section 16(3) of this Act or, as the case may be, the authority designated under section 12AA or 23 of this Act."

(2) In subsection (2B) of that section for the words "person referred to in subsection (1A) (a) or (b) (as the case may be) of this section" there shall be substituted " responsible person" ".

Annotations:

Commencement Information

I225 Sch. 12 para. 27 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

28 In section 34(1) of that Act (transitional modifications of Part I for persons of specified ages)—

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(a) in paragraph (a), for the words "13(2) or 28(4) or (5)" there shall be substituted " or 13(2)" "; and

(b) in paragraph (e), for the words "section 23(2) or (3)" there shall be substituted " section 23(4) to (6)" ".

Annotations:

Commencement Information

I226 Sch. 12 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

29 In section 70(1) of that Act (interpretation)—

(a) after the definition of "local authority" there shall be inserted—

""local authority accommodation" means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989)";
F894

. . .

(b) . . . . . .

Annotations:

Amendments (Textual)

F894 Sch. 12 para. 29(b) and the preceding "and" repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Commencement Information

I227 Sch. 12 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

30 In section 73 of that Act (extent, etc.)—

(a) in subsection (4)(a) for "32(1), (3) and (4)" there shall be substituted " 32(1) to (1C) and (2A) to (4)" "; and

(b) in subsection (6) for "32(1), (1A)" there shall be substituted " 32(1) to (1C)" ".

Annotations:

Extent Information

E7 Sch. 12 para. 30(a) extends to Scotland see s. 108(11)

Commencement Information

I228 Sch. 12 para. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Matrimonial Causes Act 1973 (c. 18)

31 For section 41 of the Matrimonial Causes Act 1973 (restrictions on decrees for dissolution, annulment or separation affecting children) there shall be substituted—

"41 (1) In any proceedings for a decree of divorce or nullity of marriage, or a decree of judicial separation, the court shall consider—

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(a) whether there are any children of the family to whom this section applies; and

(b) where there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under the Children Act 1989 with respect to any of them.

(2) Where, in any case to which this section applies, it appears to the court that—

(a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the Act of 1989 with respect to any such child;

(b) it is not in a position to exercise that power or (as the case may be) those powers without giving further consideration to the case; and

(c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section,

it may direct that the decree of divorce or nullity is not to be made absolute, or that the decree of judicial separation is not to be granted, until the court orders otherwise.

(3) This section applies to—

(a) any child of the family who has not reached the age of sixteen at the date when the court considers the case in accordance with the requirements of this section; and

(b) any child of the family who has reached that age at that date and in relation to whom the court directs that this section shall apply.”

Annotations:

Commencement Information

I229 Sch. 12 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

32 In section 42 of that Act, subsection (3) (declaration by court that party to marriage unfit to have custody of children of family) shall cease to have effect.

Annotations:

Commencement Information

I230 Sch. 12 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

33 In section 52(1) of that Act (interpretation), in the definition of “child of the family", for the words “has been boarded-out with those parties" there shall be substituted “ is placed with those parties as foster parents" ”.

Annotations:

Commencement Information

I231 Sch. 12 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The National Health Service Act 1977 (c. 49)

34 F895 . . . . . .

Annotations:

Amendments (Textual)

F895 Sch. 12 para. 34 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

The Child Care Act 1980 (c. 5)

35 Until the repeal of the Child Care Act 1980 by this Act takes effect, the definition of "parent" in section 87 of that Act shall have effect as if it applied only in relation to Part I and sections 13, 24, 64 and 65 of that Act (provisions excluded by section 2(1)(f) of the M84Family Law Reform Act 1987 from the application of the general rule in that Act governing the meaning of references to relationships between persons).

Annotations:

Marginal Citations

M84 1987 c. 42.

The Education Act 1981 (c. 60)

F896 36 . . . . . .

Annotations:

Amendments (Textual)

F896 Sch. 12 para. 36 repealed(1.9.1994) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 154, **Sch. 21 Pt. I**; S.I. 1994/2038, art. 3, **Sch. 2**, Appendix

The Child Abduction Act 1984 (c. 37)

37 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction by parent, etc.) shall be amended as follows.

(2) For subsections (2) to (4) there shall be substituted—

"(2) A person is connected with a child for the purposes of this section if—

(a) he is a parent of the child; or

(b) in the case of a child whose parents were not married to each other at the time of his birth, there are reasonable grounds for believing that he is the father of the child; or

(c) he is a guardian of the child; or

(d) he is a person in whose favour a residence order is in force with respect to the child; or

(e) he has custody of the child.

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(3) In this section "the appropriate consent", in relation to a child, means—

(a) the consent of each of the following—

(i) the child's mother;

(ii) the child's father, if he has parental responsibility for him;

(iii) any guardian of the child;

(iv) any person in whose favour a residence order is in force with respect to the child;

(v) any person who has custody of the child; or

(b) the leave of the court granted under or by virtue of any provision of Part II of the Children Act 1989; or

(c) if any person has custody of the child, the leave of the court which awarded custody to him.

(4) A person does not commit an offence under this section by taking or sending a child out of the United Kingdom without obtaining the appropriate consent if—

(a) he is a person in whose favour there is a residence order in force with respect to the child, and

(b) he takes or sends him out of the United Kingdom for a period of less than one month.

(4A) Subsection (4) above does not apply if the person taking or sending the child out of the United Kingdom does so in breach of an order under Part II of the Children Act 1989."

(3) In subsection (5) for the words from "but" to the end there shall be substituted—

"(5A) Subsection (5)(c) above does not apply if—

(a) the person who refused to consent is a person—

(i) in whose favour there is a residence order in force with respect to the child; or

(ii) who has custody of the child; or

(b) the person taking or sending the child out of the United Kingdom is, by so acting, in breach of an order made by a court in the United Kingdom."

(4) For subsection (7) there shall be substituted—

"(7) For the purposes of this section—

(a) "guardian of a child", "residence order" and "parental responsibility" have the same meaning as in the Children Act 1989; and

(b) a person shall be treated as having custody of a child if there is in force an order of a court in the United Kingdom awarding him (whether solely or jointly with another person) custody, legal custody or care and control of the child."

(5) In subsection (8) for the words from "or voluntary organisation" to "custodianship proceedings or" there shall be substituted " detained in a place of safety, remanded to a local authority accommodation or the subject of" ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Commencement Information

I232 Sch. 12 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

38 (1) In section 2 of that Act (offence of abduction of child by other persons), in subsection (1) for the words from "Subject" to "above" there shall be substituted " Subject to subsection (3) below, a person, other than one mentioned in subsection (2) below." "

(2) For subsection (2) of that section there shall be substituted—

"(2) The persons are—

(a) where the father and mother of the child in question were married to each other at the time of his birth, the child's father and mother;

(b) where the father and mother of the child in question were not married to each other at the time of his birth, the child's mother; and

(c) any other person mentioned in section 1(2)(c) to (e) above.

(3) In proceedings against any person for an offence under this section, it shall be a defence for that person to prove—

(a) where the father and mother of the child in question were not married to each other at the time of his birth—

(i) that he is the child's father; or

(ii) that, at the time of the alleged offence, he believed, on reasonable grounds, that he was the child's father; or

(b) that, at the time of the alleged offence, he believed that the child had attained the age of sixteen."

Annotations:

Commencement Information

I233 Sch. 12 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

39 At the end of section 3 of that Act (construction of references to taking, sending and detaining) there shall be added "and

(d) references to a child's parents and to a child whose parents were (or were not) married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987 (which extends their meaning)."

Annotations:

Commencement Information

I234 Sch. 12 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

40 (1) The Schedule to that Act (modifications of section 1 for children in certain cases) shall be amended as follows.

(2) In paragraph 1(1) for the words "or voluntary organisation" there shall be substituted " within the meaning of the Children Act 1989" ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) For paragraph 2(1) there shall be substituted—

"(1) This paragraph applies in the case of a child who is—

(a) detained in a place of safety under section 16(3) of the Children and Young Persons Act 1969; or

(b) remanded to local authority accommodation under section 23 of that Act."

(4) In paragraph 3(1)—

(a) in paragraph (a) for the words "section 14 of the Children Act 1975" there shall be substituted " section 18 of the Adoption Act 1976" "; and

(b) in paragraph (d) for the words "section 25 of the Children Act 1975 or section 53 of the Adoption Act 1958" there shall be substituted " section 55 of the Adoption Act 1976" ".

(5) In paragraph 3(2)(a)—

(a) in sub-paragraph (i), for the words from "order or," to "Children Act 1975" there shall be substituted " section 18 order or, if the section 18 order has been varied under section 21 of that Act so as to give parental responsibility to another agency" ", and

(b) in sub-paragraph (ii), for the words "(c) or (e)" there shall be substituted " or (c)" ".

(6) At the end of paragraph 3 there shall be added—

"(3) Sub-paragraph (2) above shall be construed as if the references to the court included, in any case where the court is a magistrates' court, a reference to any magistrates' court acting for the same area as that court".

(7) For paragraph 5 there shall be substituted—

"5 In this Schedule—

(a) "adoption agency" and "adoption order" have the same meaning as in the Adoption Act 1976; and

(b) "area", in relation to a magistrates' court, means the petty sessions area (within the meaning of the Justices of the Peace Act 1979) for which the court is appointed."

Annotations:

Commencement Information

I235 Sch. 12 para. 40 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Foster Children (Scotland) Act 1984 (c. 56)

41 In section 1 of the Foster Children (Scotland) Act 1984 (definition of foster child)—

(a) for the words "he is— (a)" there shall be substituted " (a) he is" "; and

(b) the words "for a period of more than 6 days" and the words from "The period" to the end shall cease to have effect..

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Commencement Information

I236 Sch. 12 para. 41 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

42 In section 2(2) of that Act (exceptions to section 1), for paragraph (f) there shall be substituted—

"(f) if he has been in that person's care for a period of less than 28 days and that person does not intend to undertake his care for any longer period."

Annotations:

Commencement Information

I237 Sch. 12 para. 42 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

43 In section 7(1) of that Act (persons disqualified from keeping foster children)—

(a) the word "or" at the end of paragraph (e) shall be omitted; and

(b) after paragraph (f) there shall be inserted "or

(g) he is disqualified from fostering a child privately (within the meaning of the Children Act 1989) by regulations made under section 68 of that Act,".

Annotations:

Commencement Information

I238 Sch. 12 para. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

44 In section 2(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (circumstances in which authorised representative has right to visit etc. disabled person), after paragraph (d) there shall be inserted—

"(dd) in accommodation provided by any educational establishment."

Annotations:

Commencement Information

I239 Sch. 12 para. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Legal Aid Act 1988 (c. 34)

F897 45 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Annotations:

Amendments (Textual)

F897 Sch. 12 para. 45 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(i), **Sch.**

SCHEDULE 13

Section 108(5).

CONSEQUENTIAL AMENDMENTS

The Wills Act 1837 (c. 26)

1 In section 1 of the Wills Act 1837 (interpretation), in the definition of "will", for the words "and also to a disposition by will and testament or devise of the custody and tuition of any child" there shall be substituted " and also to an appointment by will of a guardian of a child" ".

Annotations:

Commencement Information

I240 Sch. 13 para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Children and Young Persons Act 1933 (c. 12)

2 In section 1(1) of the Children and Young Persons Act 1933 (cruelty to persons under sixteen) for the words "has the custody, charge or care of" there shall be substituted " has responsibility for" ".

Annotations:

Commencement Information

I241 Sch. 13 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

3 In the following sections of that Act—

(a) 3(1) (allowing persons under sixteen to be in brothels);

(b) 4(1) and (2) (causing or allowing persons under sixteen to be used for begging);

(c) 11 (exposing children under twelve to risk of burning); and

(d) 25(1) (restrictions on persons under eighteen going abroad for the purpose of performing for profit),

for the words "the custody, charge or care of" there shall, in each case, be substituted " responsibility for" ".

Annotations:

Commencement Information

I242 Sch. 13 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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F898 4 . . . . . .

Annotations:

Amendments (Textual)

F898 Sch. 13 para. 4 repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 155, **Sch. 21 Pt. I**; S.I. 1993/1975, art. 9, **Sch.1**

5 For section 17 of that Act (interpretation of Part I) there shall be substituted the following section—

"17 (1) For the purposes of this Part of this Act, the following shall be presumed to have responsibility for a child or young person—

(a) any person who—

(i) has parental responsibility for him (within the meaning of the Children Act 1989); or

(ii) is otherwise legally liable to maintain him; and

(b) any person who has care of him.

(2) A person who is presumed to be responsible for a child or young person by virtue of subsection (1)(a) shall not be taken to have ceased to be responsible for him by reason only that he does not have care of him."

Annotations:

Commencement Information

I243 Sch. 13 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

6 (1) In section 34 of that Act (attendance at court of parent of child or young person charged with an offence etc.), in subsection (1) after the word "offence" there shall be inserted " is the subject of an application for a care or supervision order under Part IV of the Children Act 1989" ".

(2) In subsection (7) of that section after the words "Children and Young Persons Act 1969" there shall be inserted " or Part IV of the Children Act 1989" ".

(3) After subsection (7) of that section there shall be inserted—

"(7A) If it appears that at the time of his arrest the child or young person is being provided with accommodation by or on behalf of a local authority under section 20 of the Children Act 1989, the local authority shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so."

Annotations:

Commencement Information

I244 Sch. 13 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

7 In section 107(1) of that Act (interpretation)—

(a) in the definition of "guardian", for the words "charge of or control over" there shall be substituted " care of" ";

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(b) for the definition of legal guardian there shall be substituted—

""legal guardian", in relation to a child or young person, means a guardian of a child as defined in the Children Act 1989".

Annotations:

Commencement Information

I245 Sch. 13 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Education Act 1944 (c. 31)

F899 8 . . . . . .

Annotations:

Amendments (Textual)

F899 Sch. 13 para. 8 repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 155, **Sch. 21 Pt. I**; S.I. 1993/1975, art. 3, **Sch.1**

F900 9 . . . . . .

Annotations:

Amendments (Textual)

F900 Sch. 13 paras. 9-10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2)(3), Sch. 38 Pt. I, **Sch. 39** (with s. 1(4)).

F901 10 . . . . . .

Annotations:

Amendments (Textual)

F901 Sch. 13, paras. 9, 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2)(3), **Sch. 38 Pt.I**, (with s. 1(4), Sch. 39, paras. 5, 6, 8)

The National Assistance Act 1948 (c. 29)

11 (1) In section 21(1)(a) of the National Assistance Act 1948 (persons for whom local authority is to provide residential accommodation) after the word "persons" there shall be inserted " aged eighteen or over" ".

(2) In section 29(1) of that Act (welfare arrangements for blind, deaf, dumb and crippled persons) after the words "that is to say persons" and after the words "and other persons" there shall, in each case, be inserted " aged eighteen or over" ".

Annotations:

Commencement Information

I246 Sch. 13 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: *This version of this Act contains provisions that are prospective.*
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The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)

12 For section 2(1)(d) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (cases in which leave of the appropriate court is required before enforcing certain orders for the payment of money), there shall be substituted—

"(d) an order for alimony, maintenance or other payment made under sections 21 to 33 of the Matrimonial Causes Act 1973 or made, or having effect as if made, under Schedule 1 to the Children Act 1989."

Annotations:

Commencement Information

I247 Sch. 13 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Mines and Quarries Act 1954 (c. 70)

F902 13 . . . . . .

Annotations:

Amendments (Textual)

F902 Sch. 13 para. 13 repealed (1.11.1996) by 1996 c. 36, s. 105(5), **Sch. 5**, Table (with s. 103(1)); S.I. 1996/2203, art. 3, **Sch.** Table

The Administration of Justice Act 1960 (c. 65)

14 In section 12 of the Administration of Justice Act 1960 (publication of information relating to proceedings in private), in subsection (1) for paragraph (a) there shall be substituted—

"(a) where the proceedings—

(i) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors;

(ii) are brought under the Children Act 1989; or

(iii) otherwise relate wholly or mainly to the maintenance or upbringing of a minor;".

Annotations:

Commencement Information

I248 Sch. 13 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Factories Act 1961 (c. 34)

15 In section 176(1) of the Factories Act 1961 (interpretation), in the definition of "parent", for the words from "or guardian" to first "young person" there shall be substituted " of a child or young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children Act 1989)" ".

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Annotations:

Commencement Information
I249 Sch. 13 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Criminal Justice Act 1967 (c. 80)

16 In section 67(1A)(c) of the Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) for the words "in the care of a local authority" there shall be substituted " remanded to local authority accommodation." "

Annotations:

Commencement Information
I250 Sch. 13 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Health Services and Public Health Act 1968 (c. 46)

17 (1) In section 64(3)(a) of the Health Services and Public Health Act 1968 (meaning of "relevant enactments" in relation to power of Minister of Health or Secretary of State to provide financial assistance), for sub-paragraph (xix) inserted by paragraph 19 of Schedule 5 to the [M85]Child Care Act 1980 there shall be substituted—

"(xx) the Children Act 1989."

(2) In section 65(3)(b) of that Act (meaning of "relevant enactments" in relation to power of local authority to provide financial and other assistance), for sub-paragraph (xx) inserted by paragraph 20 of Schedule 5 to the Child Care Act 1980 there shall be substituted—

"(xxi) the Children Act 1989."

Annotations:

Commencement Information
I251 Sch. 13 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M85 1980 c. 5.

The Social Work (Scotland) Act 1968 (c. 49)

18 In section 2(2) of the Social Work (Scotland) Act 1968 (matters referred to social work committee) after paragraph (j) there shall be inserted—

"(k) section 19 and Part X of the Children Act 1989,".

Annotations:

Commencement Information
I252 Sch. 13 para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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19 In section 5(2)(c) of that Act (power of Secretary of State to make regulations) for the words “and (j)" there shall be substituted “ to (k)" ”.

Annotations:

Commencement Information
I253 Sch. 13 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

20 In section 21(3) of that Act (mode of provision of accommodation and maintenance) for the words “section 21 of the Child Care Act 1980" there shall be substituted “ section 23 of the Children Act 1989" ”.

Annotations:

Commencement Information
I254 Sch. 13 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

21 In section 74(6) of that Act (parent of child in residential establishment moving to England or Wales) for the words from “Children and Young Persons Act 1969" to the end there shall be substituted “ Children Act 1989, but as if section 31(8) were omitted" ”.

Annotations:

Commencement Information
I255 Sch. 13 para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

22 In section 75(2) of that Act (parent of child subject to care order etc. moving to Scotland), for the words “Children and Young Persons Act 1969" there shall be substituted “ Children Act 1989" ”.

Annotations:

Commencement Information
I256 Sch. 13 para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

23 In section 86(3) of that Act (meaning of ordinary residence for purpose of adjustments between authority providing accommodation and authority of area of residence), the words “the Child Care Act 1980 or” shall be omitted and after the words “education authority" there shall be inserted “ or placed with local authority foster parents under the Children Act 1989" ”.

Annotations:

Commencement Information
I257 Sch. 13 para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Civil Evidence Act 1968 (c. 64)

F903 24 . . . . . .

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Annotations:

Amendments (Textual)

F903 Sch. 13 para. 24 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 2(2), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I258 Sch. 13 para. 24 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Administration of Justice Act 1970 (c. 31)

F904 25 . . . . . .

Annotations:

Amendments (Textual)

F904 Sch. 13 para. 25 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 6(2), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I259 Sch. 13 para. 25 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Local Authority Social Services Act 1970 (c. 42)

26 (1) In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to social service committee)—

(a) in the entry relating to the Mental Health Act 1959, for the words "sections 8 and 9" there shall be substituted " section 8" "; and

(b) in the entry relating to the Children and Young Persons Act 1969, for the words "sections 1, 2 and 9" there shall be substituted " section 9" ".

(2) At the end of that Schedule there shall be added—

"Children Act 1989.	Welfare reports.
The whole Act, in so far as it confers functions on a local authority within the meaning of that Act.	Consent to application for residence order in respect of child in care.
	Family assistance orders.
	Functions under Part III of the Act (local authority support for children and families).
	Care and supervision.
	Protection of children.
	Functions in relation to community homes, voluntary homes and voluntary organisations, registered children's homes, private arrangements for fostering children, child minding and day care for young children.

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	Inspection of children's homes on behalf of Secretary of State.
	Research and returns of information.
	Functions in relation to children accommodated by health authorities and local education authorities or in residential care, nursing or mental nursing homes or in independent schools."

Annotations:

Commencement Information

I260 Sch. 13 para. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Chronically Sick and Disabled Persons Act 1970 (c. 44)

27 After section 28 of the Chronically Sick and Disabled Persons Act 1970 there shall be inserted—

"28A This Act applies with respect to disabled children in relation to whom a local authority have functions under Part III of the Children Act 1989 as it applies in relation to persons to whom section 29 of the National Assistance Act 1948 applies."

Annotations:

Commencement Information

I261 Sch. 13 para. 27 wholly in force at 14.10.1991 see s. 108(2)and(3) and (S.I. 1991/828 art. 3(2))

The Courts Act 1971 (c. 23)

28 In Part I of Schedule 9 to the Courts Act 1971 (substitution of references to Crown Court), in the entry relating to the Children and Young Persons Act 1969, for the words "Sections 2(12), 3(8), 16(8), 21(4)(5)" there shall be substituted " Section 16(8)." ".

Annotations:

Commencement Information

I262 Sch. 13 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Attachment of Earnings Act 1971 (c. 32)

29 In Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which that Act applies), in paragraph 7, for the words "section 47 or 51 of the Child Care Act 1980" there shall be substituted " paragraph 23 of Schedule 2 to the Children Act 1989" ".

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Commencement Information

I263 Sch. 13 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Tribunals and Inquiries Act 1971 (c. 62)

F905 30 . . . . . .

Annotations:

Amendments (Textual)

F905 Sch. 13 para. 30 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), **Sch. 4 Pt. I**

The Local Government Act 1972 (c. 70)

31 (1) In section 102(1) of the Local Government Act 1972 (appointment of committees) for the words "section 31 of the Child Care Act 1980" there shall be substituted " section 53 of the Children Act 1989" ".

(2) In Schedule 12A to that Act (access to information: exempt information), in Part III (interpretation), in paragraph 1(1)(b) for the words "section 20 of the Children and Young Persons Act 1969" there shall be substituted " section 31 of the Children Act 1989" ".

Annotations:

Commencement Information

I264 Sch. 13 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Employment of Children Act 1973 (c. 24)

32 F906 . . . . . .

Annotations:

Amendments (Textual)

F906 Sch. 13 para. 32 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), ss. 1(1), **Sch. 1 Pt. 11**

Commencement Information

I265 Sch. 13 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Domicile and Matrimonial Proceedings Act 1973 (c. 45)

33 (1) In Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (proceedings in divorce etc. stayed by reference to proceedings in other jurisdiction), paragraph 11(1) shall be amended as follows—

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(a) at the end of the definition of "lump sum" there shall be added "or an order made in equivalent circumstances under Schedule 1 to the Children Act 1989 and of a kind mentioned in paragraph 1(2)(c) of that Schedule";

(b) in the definition of "relevant order", at the end of paragraph (b), there shall be added "or an order made in equivalent circumstances under Schedule 1 to the Children Act 1989 and of a kind mentioned in paragraph 1(2)(a) or (b) of that Schedule";

(c) in paragraph (c) of that definition, after the word "children)" there shall be inserted "or a section 8 order under the Children Act 1989"; and

(d) in paragraph (d) of that definition for the words "the custody, care or control" there shall be substituted "care".

(2) In paragraph 11(3) of that Schedule—

(a) the word "four" shall be omitted; and

(b) for the words "the custody of a child and the education of a child" there shall be substituted "or any provision which could be made by a section 8 order under the Children Act 1989".

Annotations:

Commencement Information

I266 Sch. 13 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Powers of Criminal Courts Act 1973 (c. 62)

F907 34 . . . . . .

Annotations:

Amendments (Textual)

F907 Sch. 13 para. 34 repealed (5.2.1994) by 1993 c. 47, ss. 32(3), 33(2), **Sch. 4**

The Rehabilitation of Offenders Act 1974 (c. 53)

35 (1) Section 7(2) of the Rehabilitation of Offenders Act 1974 (limitations on rehabilitation under the Act) shall be amended as follows.

(2) For paragraph (c) there shall be substituted—

"(c) in any proceedings relating to adoption, the marriage of any minor, the exercise of the inherent jurisdiction of the High Court with respect to minors or the provision by any person of accommodation, care or schooling for minors;

(cc) in any proceedings brought under the Children Act 1989;"

(3) For paragraph (d) there shall be substituted—

"(d) in any proceedings relating to the variation or discharge of a supervision order under the Children and Young Persons Act 1969, or on appeal from any such proceedings".

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Annotations:

Commencement Information
I267 Sch. 13 para. 35 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

36 For section 8 of the Domestic Proceedings and Magistrates' Courts Act 1978 (orders for the custody of children) there shall be substituted—

"8 Where an application is made by a party to a marriage for an order under section 2, 6 or 7 of this Act, then, if there is a child of the family who is under the age of eighteen, the court shall not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children Act 1989 with respect to the child."

Annotations:

Commencement Information
I268 Sch. 13 para. 36 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

37 In section 19(3A)(b) (interim orders) for the words "subsections (2) and" there shall be substituted " subsection" ".

Annotations:

Commencement Information
I269 Sch. 13 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

38 For section 20(12) of that Act (variation and revocation of orders for periodical payments) there shall be substituted—

"(12) An application under this section may be made—

(a) where it is for the variation or revocation of an order under section 2, 6, 7 or 19 of this Act for periodical payments, by either party to the marriage in question; and

(b) where it is for the variation of an order under section 2(1)(c), 6 or 7 of this Act for periodical payments to or in respect of a child, also by the child himself, if he has attained the age of sixteen."

Annotations:

Commencement Information
I270 Sch. 13 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

39 (1) For section 20A of that Act (revival of orders for periodical payments) there shall be substituted—

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"20A (1) Where an order made by a magistrates' court under this Part of this Act for the making of periodical payments to or in respect of a child (other than an interim maintenance order) ceases to have effect—

(a) on the date on which the child attains the age of sixteen, or

(b) at any time after that date but before or on the date on which he attains the age of eighteen,

the child may apply to the court which made the order for an order for its revival.

(2) If on such an application it appears to the court that—

(a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or

(b) there are special circumstances which justify the making of an order under this subsection,

the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(3) Any order revived under this section may be varied or revoked under section 20 in the same way as it could have been varied or revoked had it continued in being."

Annotations:

Commencement Information

I271 Sch. 13 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F908 40 . . . . . .

Annotations:

Amendments (Textual)

F908 Sch. 13 para. 40 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 32, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I272 Sch. 13 para. 40 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

41 (1) In section 25 of that Act (effect on certain orders of parties living together), in subsection (1)(a) for the words "6 or 11(2)" there shall be substituted " or 6" ".

(2) In subsection (2) of that section—

(a) in paragraph (a) for the words "6 or 11(2)" there shall be substituted " or 6" "; and

(b) after paragraph (a) there shall be inserted " or" ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Commencement Information

I273 Sch. 13 para. 41 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

42 In section 29(5) of that Act (appeals) for the words "sections 14(3), 20 and 21" there shall be substituted " section 20" ".

Annotations:

Commencement Information

I274 Sch. 13 para. 42 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

43 In section 88(1) of that Act (interpretation)—

(a) in the definition of "child", for the words from "an illegitimate" to the end there shall be substituted " a child whose father and mother were not married to each other at the time of his birth" "; and

(b) in the definition of "child of the family", for the words "being boarded-out with those parties" there shall be substituted " placed with those parties as foster parents" ".

Annotations:

Commencement Information

I275 Sch. 13 para. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Magistrates' Courts Act 1980 (c. 43)

44 F909(1) . . . . . .

(2) For section 62(5) of that Act (payments to children) there shall be substituted—

"(5) In this section references to the person with whom a child has his home—

(a) in the case of any child who is being looked after by a local authority (within the meaning of section 22 of the Children Act 1989), are references to that local authority; and

(b) in any other case, are references to the person who, disregarding any absence of the child at a hospital or boarding school and any other temporary absence, has care of the child.".

Annotations:

Amendments (Textual)

F909 Sch. 13 para. 44(1) repealed (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(2), **Sch.3**; S.I. 1992/455, **art.2**.

Commencement Information

I276 Sch. 13 para. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The ***[***[F910]*Senior Courts Act 1981****]*** *(c. 54)*

Annotations:

Amendments (Textual)

F910 Sch. 13 para. 45 cross-heading: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

45 (1) In section 18 of the **[**[F911]Senior Courts Act 1981**]** (restrictions on appeals to Court of Appeal)—

(a) in subsection (1)(h)(i), for the word “custody" there shall be substituted “ residence" ”; and

(b) in subsection (1)(h)(ii) for the words “access to", in both places, there shall be substituted “ contact with" ”.

(2) In section 41 of that Act (wards of court), the following subsection shall be inserted after subsection (2)—

“(2A) Subsection (2) does not apply with respect to a child who is the subject of a care order (as defined by section 105 of the Children Act 1989).”

(3) In Schedule 1 to that Act (distribution of business in High Court), for paragraph 3(b)(ii) there shall be substituted—

“(ii) the exercise of the inherent jurisdiction of the High Court with respect to minors, the maintenance of minors and any proceedings under the Children Act 1989, except proceedings solely for the appointment of a guardian of a minor’s estate;”.

Annotations:

Amendments (Textual)

F911 Sch. 13 para. 45: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

Commencement Information

I277 Sch. 13 para. 45 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Armed Forces Act 1981 (c. 55)

46 In section 14 of the Armed Forces Act 1981 (temporary removal to, and detention in, place of safety abroad or in the United Kingdom of service children in need of care and control), in subsection (9A) for the words “the Children and Young Persons Act 1933, the Children and Young Persons Act 1969" there shall be substituted “ the Children Act 1989" ”.

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Annotations:

Commencement Information

I278 Sch. 13 para. 46 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

47 In paragraph 5(a) of Schedule 5 to the Civil Jurisdiction and Judgments Act 1982 (maintenance and similar payments excluded from Schedule 4 to that Act) for the words "section 47 or 51 of the Child Care Act 1980" there shall be substituted " paragraph 23 of Schedule 2 to the Children Act 1989" ".

Annotations:

Commencement Information

I279 Sch. 13 para. 47 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Mental Health Act 1983 (c. 20)

48 (1) For section 27 of the Mental Health Act 1983 (children and young persons in care of local authority) there shall be substituted the following section—

"27 Where—

(a) a patient who is a child or young person is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989; or

(b) the rights and powers of a parent of a patient who is a child or young person are vested in a local authority by virtue of section 16 of the Social Work (Scotland) Act 1968,

the authority shall be deemed to be the nearest relative of the patient in preference to any person except the patient's husband or wife (if any)."

(2) Section 28 of that Act (nearest relative of minor under guardianship, etc.) is amended as mentioned in sub-paragraphs (3) and (4).

(3) For subsection (1) there shall be substituted—

"(1) Where—

(a) a guardian has been appointed for a person who has not attained the age of eighteen years; or

(b) a residence order (as defined by section 8 of the Children Act 1989) is in force with respect to such a person,

the guardian (or guardians, where there is more than one) or the person named in the residence order shall, to the exclusion of any other person, be deemed to be his nearest relative."

(4) For subsection (3) there shall be substituted—

"(3) In this section "guardian" does not include a guardian under this Part of this Act."

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(5) F912 . . . . . .

Annotations:

Amendments (Textual)

F912 Sch. 13 Para. 48(5) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 9**; S.I. 2008/1900, **art. 2(p)** (with art. 3, Sch.)

Commencement Information

I280 Sch. 13 para. 48 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Registered Homes Act 1984 (c. 23)

F913 49 . . . . . .

Annotations:

Amendments (Textual)

F913 Sch. 13 para. 49 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

The Mental Health (Scotland) Act 1984 (c. 36)

50 F914 . . . . . .

Annotations:

Amendments (Textual)

F914 Sch. 13 para. 50 repealed (5.10.2005 for S.) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), s. 331, **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3** (as amended by S.S.I. 2005/375, art. 2)

Commencement Information

I281 Sch. 13 para. 50 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Matrimonial and Family Proceedings Act 1984 (c. 42)

51 In section 38(2)(b) of the Matrimonial and Family Proceedings Act 1984 (transfer of family proceedings from High Court to county court) after the words “a ward of court" there shall be inserted “ or any other proceedings which relate to the exercise of the inherent jurisdiction of the High Court with respect to minors" ”.

Annotations:

Commencement Information

I282 Sch. 13 para. 51 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The Police and Criminal Evidence Act 1984 (c. 60)

52 In section 37(14) of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge) after the words "Children and Young Persons Act 1969" there shall be inserted " or in Part IV of the Children Act 1989" ".

Annotations:

Commencement Information
I283 Sch. 13 para. 52 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

53 F915(1) . . . . . .

(2) After that subsection there shall be inserted—

"(6A) In this section "local authority accommodation" means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989).

(6B) Where an arrested juvenile is moved to local authority accommodation under subsection (6) above, it shall be lawful for any person acting on behalf of the authority to detain him.".

(3) In subsection (8) of that section for the words "Children and Young Persons Act 1969" there shall be substituted " Children Act 1989" ".

Annotations:

Amendments (Textual)
F915 Sch. 13 para. 53(1) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**.

Commencement Information
I284 Sch. 13 para. 53 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

54 In section 39(4) of that Act (responsibilities in relation to persons detained) for the words "transferred to the care of a local authority in pursuance of arrangements made" there shall be substituted " moved to local authority accommodation" ".

Annotations:

Commencement Information
I285 Sch. 13 para. 54 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

55 In Schedule 2 to that Act (preserved powers of arrest) in the entry relating to the Children and Young Persons Act 1969 for the words "Sections 28(2) and" there shall be substituted " Section" ".

Annotations:

Commencement Information
I286 Sch. 55 para. 55 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The Surrogacy Arrangements Act 1985 (c. 49)

56 In section 1(2)(b) of the Surrogacy Arrangements Act 1985 (meaning of "surrogate mother", etc.) for the words "the parental rights being exercised" there shall be substituted " parental responsibility being met" ".

Annotations:

Commencement Information

I287 Sch. 13 para. 56 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Child Abduction and Custody Act 1985 (c. 60)

57 (1) In section 9(a) and 20(2)(a) of the Child Abduction and Custody Act 1985 (orders with respect to which court's powers suspended), for the words "any other order under section 1(2) of the Children and Young Persons Act 1969" there shall be substituted " a supervision order under section 31 of the Children Act 1989" ".

(2) At the end of section 27 of that Act (interpretation), there shall be added—

"(4) In this Act a decision relating to rights of access in England and Wales means a decision as to the contact which a child may, or may not, have with any person."

(3) In Part I of Schedule 3 to that Act (orders in England and Wales which are custody orders for the purposes of the Act), for paragraph 1 there shall be substituted—

"1 The following are the orders referred to in section 27(1) of this Act—

(a) a care order under the Children Act 1989 (as defined by section 31(11) of that Act, read with section 105(1) and Schedule 14);

(b) a residence order (as defined by section 8 of the Act of 1989); and

(c) any order made by a court in England and Wales under any of the following enactments—

(i) section 9(1), 10(1)(a) or 11(a) of the Guardianship of Minors Act 1971;

(ii) section 42(1) or (2) or 43(1) of the Matrimonial Causes Act 1973;

(iii) section 2(2)(b), 4(b) or (5) of the Guardianship Act 1973 as applied by section 34(5) of the Children Act 1975;

(iv) section 8(2)(a), 10(1) or 19(1)(ii) of the Domestic Proceedings and Magistrates Courts Act 1978;

(v) section 26(1)(b) of the Adoption Act 1976."

Annotations:

Commencement Information

I288 Sch. 13 para. 57 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

58 In section 1(3) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (circumstances in which regulations may provide for the appointment of authorised representatives of disabled persons)—

(a) in paragraph (a), for the words “parent or guardian of a disabled person under the age of sixteen" there shall be substituted—

“(i) the parent of a disabled person under the age of sixteen, or

(ii) any other person who is not a parent of his but who has parental responsibility for him”; and

(b) in paragraph (b), for the words “in the care of" there shall be substituted “ looked after by" ”.

Annotations:

Commencement Information

I289 Sch. 13 para. 58 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

59 (1) Section 2 of that Act (circumstances in which authorised representative has right to visit etc. disabled person) shall be amended as follows.

(2) In subsection (3)(a) for the words from second “the" to “by" there shall be substituted “ for the words “if so requested by the disabled person" there shall be substituted “if so requested by any person mentioned in section 1(3)(a)(i) or (ii)">." ”

(3) In subsection (5) after paragraph (b) there shall be inserted—

“(bb) in accommodation provided by or on behalf of a local authority under Part III of the Children Act 1989, or”.

(4) After paragraph (c) of subsection (5) there shall be inserted—

“(cc) in accommodation provided by a voluntary organisation in accordance with arrangements made by a local authority under section 17 of the Children Act 1989, or”.

Annotations:

Commencement Information

I290 Sch. 13 para. 59 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

60 In section 5(7)(b) of that Act (disabled persons leaving special education) for the word “guardian" there shall be substituted “ other person who is not a parent of his but who has parental responsibility for him" ”.

Annotations:

Commencement Information

I291 Sch. 13 para. 60 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

61 (1) In section 16 of that Act (interpretation) in the definition of “disabled person", in paragraph (a) for the words from “means" to “applies" there shall be substituted “means—

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(i) in the case of a person aged eighteen or over, a person to whom section 29 of the 1948 Act applies, and

(ii) in the case of a person under the age of eighteen, a person who is disabled within the meaning of Part III of the Children Act 1989".

(2) After the definition of "parent" in that section there shall be inserted—

""parental responsibility" has the same meaning as in the Children Act 1989."

(3) In the definition of "the welfare enactments" in that section, in paragraph (a) after the words "the 1977 Act" there shall be inserted " and Part III of the Children Act 1989" ".

(4) At the end of that section there shall be added—

"(2) In this Act any reference to a child who is looked after by a local authority has the same meaning as in the Children Act 1989."

Annotations:

Commencement Information

I292 Sch. 13 para. 61 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Family Law Act 1986 (c. 55)

62 (1) The Family Law Act 1986 shall be amended as follows.

(2) Subject to paragraphs 63 to 71, in Part I—

(a) for the words "custody order", in each place where they occur, there shall be substituted " Part I order" ";

(b) for the words "proceedings with respect to the custody of", in each place where they occur, there shall be substituted " Part I proceedings with respect to" "; and

(c) for the words "matters relating to the custody of", in each place where they occur, there shall be substituted " Part I matters relating to" ".

(3) For section 42(7) (general interpretation of Part I) there shall be substituted—

"(7) In this Part—

(a) references to Part I proceedings in respect of a child are references to any proceedings for a Part I order or an order corresponding to a Part I order and include, in relation to proceedings outside the United Kingdom, references to proceedings before a tribunal or other authority having power under the law having effect there to determine Part I matters; and

(b) references to Part I matters are references to matters that might be determined by a Part I order or an order corresponding to a Part I order."

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Annotations:

Commencement Information

I293 Sch. 13 para. 62 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

63 (1) In section 1 (orders to which Part I of the Act of 1986 applies), in subsection (1)—

(a) for paragraph (a) there shall be substituted—

"(a) a section 8 order made by a court in England and Wales under the Children Act 1989, other than an order varying or discharging such an order"; and

(b) for paragraph (d) there shall be substituted the following paragraphs—

"(d) an order made by a court in England and Wales in the exercise of the inherent jurisdiction of the High Court with respect to children—

(i) so far as it gives care of a child to any person or provides for contact with, or the education of, a child; but

(ii) excluding an order varying or revoking such an order;

(e) an order made by the High Court in Northern Ireland in the exercise of its jurisdiction relating to wardship—

(i) so far as it gives care and control of a child to any person or provides for the education of or access to a child; but

(ii) excluding an order relating to a child of whom care or care and control is (immediately after the making of the order) vested in the Department of Health and Social Services or a Health and Social Services Board."

F916(2) . . . . . .

(3) For subsections (3) to (5) of that section there shall be substituted—

"(3) In this Part, "Part I order"—

(a) includes any order which would have been a custody order by virtue of this section in any form in which it was in force at any time before its amendment by the Children Act 1989; and

(b) (subject to sections 32 and 40 of this Act) excludes any order which would have been excluded from being a custody order by virtue of this section in any such form."

Annotations:

Amendments (Textual)

F916 SCh. 13 para. 63(2) repealed (4.11.1996) by S.I. 1995/756, **arts. 1(2)**, 15,Sch.; S.R. 1996/297, **art. 3**

Commencement Information

I294 Sch. 13 para. 63 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

64 For section 2 there shall be substituted the following sections—

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"2 (1) A court in England and Wales shall not have jurisdiction to make a section 1(1)(a) order with respect to a child in or in connection with matrimonial proceedings in England and Wales unless the condition in section 2A of this Act is satisfied.

(2) A court in England and Wales shall not have jurisdiction to make a section 1(1)(a) order in a non-matrimonial case (that is to say, where the condition in section 2A of this Act is not satisfied) unless the condition in section 3 of this Act is satisfied.

(3) A court in England and Wales shall not have jurisdiction to make a section 1(1)(d) order unless—

(a) the condition in section 3 of this Act is satisfied, or

(b) the child concerned is present in England and Wales on the relevant date and the court considers that the immediate exercise of its powers is necessary for his protection.

2A (1) The condition referred to in section 2(1) of this Act is that the matrimonial proceedings are proceedings in respect of the marriage of the parents of the child concerned and—

(a) the proceedings—

(i) are proceedings for divorce or nullity of marriage, and

(ii) are continuing;

(b) the proceedings—

(i) are proceedings for judicial separation,

(ii) are continuing,

and the jurisdiction of the court is not excluded by subsection (2) below; or

(c) the proceedings have been dismissed after the beginning of the trial but—

(i) the section 1(1)(a) order is being made forthwith, or

(ii) the application for the order was made on or before the dismissal.

(2) For the purposes of subsection (1)(b) above, the jurisdiction of the court is excluded if, after the grant of a decree of judicial separation, on the relevant date, proceedings for divorce or nullity in respect of the marriage are continuing in Scotland or Northern Ireland.

(3) Subsection (2) above shall not apply if the court in which the other proceedings there referred to are continuing has made—

(a) an order under section 13(6) or 21(5) of this Act (not being an order made by virtue of section 13(6)(a)(i)), or

(b) an order under section 14(2) or 22(2) of this Act which is recorded as being made for the purpose of enabling Part I proceedings to be taken in England and Wales with respect to the child concerned.

(4) Where a court—

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(a) has jurisdiction to make a section 1(1)(a) order in or in connection with matrimonial proceedings, but

(b) considers that it would be more appropriate for Part I matters relating to the child to be determined outside England and Wales,

the court may by order direct that, while the order under this subsection is in force, no section 1(1)(a) order shall be made by any court in or in connection with those proceedings."

Annotations:

Commencement Information

I295 Sch. 13 para. 64 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

65 (1) In section 3 (habitual residence or presence of child concerned) in subsection (1) for "section 2" there shall be substituted "section 2(2)".

(2) In subsection (2) of that section for the words "proceedings for divorce, nullity or judicial separation" there shall be substituted "matrimonial proceedings".

Annotations:

Commencement Information

I296 Sch. 13 para. 65 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

66 (1) In section 6 (duration and variation of Part I orders), for subsection (3) there shall be substituted the following subsections—

"(3) A court in England and Wales shall not have jurisdiction to vary a Part I order if, on the relevant date, matrimonial proceedings are continuing in Scotland or Northern Ireland in respect of the marriage of the parents of the child concerned.

(3A) Subsection (3) above shall not apply if—

(a) the Part I order was made in or in connection with proceedings for divorce or nullity in England and Wales in respect of the marriage of the parents of the child concerned; and

(b) those proceedings are continuing.

(3B) Subsection (3) above shall not apply if—

(a) the Part I order was made in or in connection with proceedings for judicial separation in England and Wales;

(b) those proceedings are continuing; and

(c) the decree of judicial separation has not yet been granted."

(2) In subsection (5) of that section for the words from "variation of" to "if the ward" there shall be substituted " variation of a section 1(1)(d) order if the child concerned" ".

(3) For subsections (6) and (7) of that section there shall be substituted the following subsections—

"(6) Subsection (7) below applies where a Part I order which is—

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(a) a residence order (within the meaning of the Children Act 1989) in favour of a person with respect to a child,

(b) an order made in the exercise of the High Court's inherent jurisdiction with respect to children by virtue of which a person has care of a child, or

(c) an order—

(i) of a kind mentioned in section 1(3)(a) of this Act,

(ii) under which a person is entitled to the actual possession of a child,

ceases to have effect in relation to that person by virtue of subsection (1) above.

(7) Where this subsection applies, any family assistance order made under section 16 of the Children Act 1989 with respect to the child shall also cease to have effect.

(8) For the purposes of subsection (7) above the reference to a family assistance order under section 16 of the Children Act 1989 shall be deemed to include a reference to an order for the supervision of a child made under—

(a) section 7(4) of the Family Law Reform Act 1969,

(b) section 44 of the Matrimonial Causes Act 1973,

(c) section 2(2)(a) of the Guardianship Act 1973,

(d) section 34(5) or 36(3)(b) of the Children Act 1975, or

(e) section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978;

but this subsection shall cease to have effect once all such orders for the supervision of children have ceased to have effect in accordance with Schedule 14 to the Children Act 1989."

Annotations:

Commencement Information

I297 Sch. 13 para. 66 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

67 For section 7 (interpretation of Chapter II) there shall be substituted—

"7 In this Chapter—

(a) "child" means a person who has not attained the age of eighteen;

(b) "matrimonial proceedings" means proceedings for divorce, nullity of marriage or judicial separation;

(c) "the relevant date" means, in relation to the making or variation of an order—

(i) where an application is made for an order to be made or varied, the date of the application (or first application, if two or more are determined together), and

(ii) where no such application is made, the date on which the court is considering whether to make or, as the case may be, vary the order; and

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(d) "section 1(1)(a) order" and "section 1(1)(d) order" mean orders falling within section 1(1)(a) and (d) of this Act respectively."

Annotations:

Commencement Information
I298 Sch. 13 para. 67 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

68 In each of the following sections—

(a) section 11(2)(a) (provisions supplementary to sections 9 and 10),
(b) section 13(5)(a) (jurisdiction ancillary to matrimonial proceedings),
(c) section 20(3)(a) (habitual residence or presence of child),
(d) section 21(4)(a) (jurisdiction in divorce proceedings, etc.), and
(e) section 23(4)(a) (duration and variation of custody orders),

for "4(5)" there shall be substituted " 2A(4)" ".

Annotations:

Extent Information
E8 Sch. 13 para. 68(a)(b) extends to Scotland and para. 68(c)-(e) extends to Northern Ireland see s. 108(11)(12)

Commencement Information
I299 Sch. 13 para. 68 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

69 In each of the following sections—

[[F917](a) section 19(2) (jurisdiction in cases other than divorce, etc.),**]**
(b) section 20(6) (habitual residence or presence of child), and
(c) section 23(5) (duration and variation of custody orders),

for "section 1(1)(d)" there shall be substituted " section 1(1)(e)" ".

Annotations:

Amendments (Textual)
F917 Sch. 13 para. 69(a) repealed (N.I.) (4.11.1996) by S.I. 1995/755, art. 185(2), **Sch. 10**; S.R. 1996/297, **art. 2(2)**

Commencement Information
I300 Sch. 13 para. 69 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

70 In section 34(3) (power to order recovery of child) for paragraph (a) there shall be substituted—

"(a) section 14 of the Children Act 1989".

Annotations:

Commencement Information
I301 Sch. 13 para. 70 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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71 (1) In section 42 (general interpretation of Part I), in subsection (4)(a) for the words "has been boarded out with those parties" there shall be substituted " is placed with those parties as foster parents" ".

(2) In subsection (6) of that section, in paragraph (a) after the word "person" there shall be inserted " to be allowed contact with or" ".

Annotations:

Commencement Information

I302 Sch. 13 para. 71 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Local Government Act 1988 (c. 9)

72 In Schedule 1 to the Local Government Act 1988 (competition) at the end of paragraph 2(4) (cleaning of buildings: buildings to which competition provisions do not apply) for paragraph (c) there shall be substituted—

"(c) section 53 of the Children Act 1989."

Annotations:

Commencement Information

I303 Sch. 13 para. 72 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Amendments of local Acts

73 (1) Section 16 of the [M86]Greater London Council (General Powers) Act 1981 (exemption from provisions of Part IV of the Act of certain premises) shall be amended as follows.

[F918](2) . . . . . .

(3) . . . . . .

(4) In paragraph (i), for the words "section 8 of the Foster Children Act 1980" there shall be substituted " section 67 of the Children Act 1989" ".

Annotations:

Amendments (Textual)

F918 Sch. 13 para. 73(2)(3) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I304 Sch. 13 para. 73 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M86 1981 c. xvii.

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74 (1) Section 10(2) of the [M87]Greater London Council (General Powers) Act 1984 (exemption from provisions of Part IV of the Act of certain premises) shall be amended as follows.

[F919](2) . . . . . .

(3) In paragraph (e), for the words "section 8 of the Foster Children Act 1980" there shall be substituted " section 67 of the Children Act 1989" ".

(4) . . . . . .

Annotations:

Amendments (Textual)

F919 Sch. 13 para. 74(2)(4) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I305 Sch. 13 para. 74 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M87 1984 c. xxvii.

SCHEDULE 14

Section 108(6).

TRANSITIONALS AND SAVINGS

Pending proceedings, etc.

1 (1) **[**[F920]Subject to sub-paragraphs (1A) and (4)**]**, nothing in any provision of this Act (other than the repeals mentioned in sub-paragraph (2)) shall affect any proceedings which are pending immediately before the commencement of that provision.

[[F921](1A) Proceedings pursuant to section 7(2) of the Family Law Reform Act 1969 (committal of wards of court to care of local authority) or in the exercise of the High Court's inherent jurisdiction with respect to children which are pending in relation to a child who has been placed or allowed to remain in the care of a local authority shall not be treated as pending proceedings after 13th October 1992 for the purposes of this Schedule if no final order has been made by that date pursuant to section 7(2) of the 1969 Act or in the exercise of the High Court's inherent jurisdiction in respect of the child's care.**]**

(2) The repeals are those of—

(a) section 42(3) of the [M88]Matrimonial Causes Act 1973 (declaration by court that party to marriage unfit to have custody of children of family); and

(b) section 38 of the [M89]Sexual Offences Act 1956 (power of court to divest person of authority over girl or boy in cases of incest).

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(3) For the purposes of the following provisions of this Schedule, any reference to an order in force immediately before the commencement of a provision of this Act shall be construed as including a reference to an order made after that commencement in proceedings pending before that commencement.

(4) Sub-paragraph (3) is not to be read as making the order in question have effect from a date earlier than that on which it was made.

(5) An order under section 96(3) may make such provision with respect to the application of the order in relation to proceedings which are pending when the order comes into force as the Lord Chancellor considers appropriate.

Annotations:

Amendments (Textual)

F920 Words in Sch. 14 para. 1(1) substituted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1A(1)** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para. 1**)

F921 Sch. 14 para. 1(1A) inserted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1A(2)** (as inserted by S.I. 1991/1990, **art. 2(c)**,Sch. para. 1)

Commencement Information

I306 Sch. 14 para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M88 1973 c. 18.

M89 1956 c. 69.

2 Where, immediately before the day on which Part IV comes into force, there was in force an order under section 3(1) of the [M90]Children and Young Persons Act 1963 (order directing a local authority to bring a child or young person before a **[**[F922]youth court**]** under section 1 of the Children and Young Persons Act 1969), the order shall cease to have effect on that day.

Annotations:

Amendments (Textual)

F922 Words in Sch. 14 para. 2 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(1)(2)(r)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

Commencement Information

I307 Sch. 14 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M90 1963 c. 37.

CUSTODY ORDERS, ETC.

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Cessation of declarations of unfitness, etc.

3 Where, immediately before the day on which Parts I and II come into force, there was in force—

(a) a declaration under section 42(3) of the Matrimonial Causes Act 1973 (declaration by court that party to marriage unfit to have custody of children of family); or

(b) an order under section 38(1) of the Sexual Offences Act 1956 divesting a person of authority over a girl or boy in a case of incest;

the declaration or, as the case may be, the order shall cease to have effect on that day.

Annotations:

Commencement Information

I308 Sch. 14 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Family Law Reform Act 1987 (c. 42)

Conversion of orders under section 4

4 Where, immediately before the day on which Parts I and II come into force, there was in force an order under section 4(1) of the Family Law Reform Act 1987 (order giving father parental rights and duties in relation to a child), then, on and after that day, the order shall be deemed to be an order under section 4 of this Act giving the father parental responsibility for the child.

Annotations:

Commencement Information

I309 Sch. 14 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Orders to which paragraphs 6 to 11 apply

5 (1) In paragraphs 6 to 11 "an existing order" means any order which—

(a) is in force immediately before the commencement of Parts I and II;

(b) was made under any enactment mentioned in sub-paragraph (2);

(c) determines all or any of the following—

(i) who is to have custody of a child;

(ii) who is to have care and control of a child;

(iii) who is to have access to a child;

(iv) any matter with respect to a child's education or upbringing; and

(d) is not an order of a kind mentioned in paragraph 15(1).

(2) The enactments are—

(a) the [M91]Domestic Proceedings and Magistrates' Courts Act 1978;

(b) the [M92]Children Act 1975;

(c) the [M93]Matrimonial Causes Act 1973;

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(d) the Guardianship of Minors Acts 1971 and 1973;

(e) the [M94]Matrimonial Causes Act 1965;

(f) the [M95]Matrimonial Proceedings (Magistrates' Courts) Act 1960.

(3) For the purposes of this paragraph and paragraphs 6 to 11 "custody" includes legal custody and joint as well as sole custody but does not include access.

Annotations:

Commencement Information

I310 Sch. 14 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M91 1978 c. 22.
M92 1975 c. 72.
M93 1973 c. 18.
M94 1965 c. 72.
M95 1960 c. 48.

Parental responsibility of parents

6 (1) Where—

(a) a child's father and mother were married to each other at the time of his birth; and

(b) there is an existing order with respect to the child,

each parent shall have parental responsibility for the child in accordance with section 2 as modified by sub-paragraph (3).

(2) Where—

(a) a child's father and mother were not married to each other at the time of his birth; and

(b) there is an existing order with respect to the child,

section 2 shall apply as modified by sub-paragraphs (3) and (4).

(3) The modification is that for section 2(8) there shall be substituted—

"(8) The fact that a person has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any existing order or any order made under this Act with respect to the child".

(4) The modifications are that—

(a) for the purposes of section 2(2), where the father has custody or care and control of the child by virtue of any existing order, the court shall be deemed to have made (at the commencement of that section) an order under section 4(1) giving him parental responsibility for the child; and

(b) where by virtue of paragraph (a) a court is deemed to have made an order under section 4(1) in favour of a father who has care and control of a child by virtue of an existing order, the court shall not bring the order under section 4(1) to an end at any time while he has care and control of the child by virtue of the order.

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Annotations:

Commencement Information

I311 Sch. 14 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Persons who are not parents but who have custody or care and control

7 (1) Where a person who is not the parent or guardian of a child has custody or care and control of him by virtue of an existing order, that person shall have parental responsibility for him so long as he continues to have that custody or care and control by virtue of the order.

(2) Where sub-paragraph (1) applies, **[**F923Parts I and II and paragraph 15 of Schedule I**]** shall have effect as modified by this paragraph.

(3) The modifications are that—

(a) for section 2(8) there shall be substituted—

"(8) The fact that a person has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any existing order or with any order made under this Act with respect to the child";

(b) at the end of section 10(4) there shall be inserted—

"(c) any person who has custody or care and control of a child by virtue of any existing order"; and

(c) at the end of section 34(1)(c) there shall be inserted—

"(cc) where immediately before the care order was made there was an existing order by virtue of which a person had custody or care and control of the child, that person."

[F924(d) for paragraph 15 of Schedule I there shall be substituted—

"15 Where a child lives with a person as the result of a custodianship order within the meaning of section 33 of the Children Act 1975, a local authority may make contributions to that person towards the cost of the accommodation and maintenance of the child so long as that person continues to have legal custody of that child by virtue of the order."**]**

Annotations:

Amendments (Textual)

F923 Words in Sch. 14 para. 7(2) substituted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1B(1)** (as inserted by S.I. 1991/1990, **art. 2(c)**,Sch. para. 1)

F924 Sch. 14 para. 7(3)(d) inserted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1B(2)** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para. 1**)

Commencement Information

I312 Sch. 14 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Persons who have care and control

8 (1) Sub-paragraphs (2) to (6) apply where a person has care and control of a child by virtue of an existing order, but they shall cease to apply when that order ceases to have effect.

(2) Section 5 shall have effect as if—

(a) for any reference to a residence order in favour of a parent or guardian there were substituted a reference to any existing order by virtue of which the parent or guardian has care and control of the child; and

(b) for subsection (9) there were substituted—

"(9) Subsections (1) and (7) do not apply if the existing order referred to in paragraph (b) of those subsections was one by virtue of which a surviving parent of the child also had care and control of him."

(3) Section 10 shall have effect as if for subsection (5)(c)(i) there were substituted—

"(i) in any case where by virtue of an existing order any person or persons has or have care and control of the child, has the consent of that person or each of those persons".

(4) Section 20 shall have effect as if for subsection (9)(a) there were substituted " who has care and control of the child by virtue of an existing order." "

(5) Section 23 shall have effect as if for subsection (4)(c) there were substituted—

"(c) where the child is in care and immediately before the care order was made there was an existing order by virtue of which a person had care and control of the child, that person."

(6) In Schedule 1, paragraphs 1(1) and 14(1) shall have effect as if for the words "in whose favour a residence order is in force with respect to the child" there were substituted " who has been given care and control of the child by virtue of an existing order" ".

Annotations:

Commencement Information

I313 Sch. 14 para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Persons who have access

9 (1) Sub-paragraphs (2) to (4) apply where a person has access by virtue of an existing order.

(2) Section 10 shall have effect as if after subsection (5) there were inserted—

"(5A) Any person who has access to a child by virtue of an existing order is entitled to apply for a contact order."

(3) Section 16(2) shall have effect as if after paragraph (b) there were inserted—

"(bb) any person who has access to the child by virtue of an existing order."

(4) Sections 43(11), 44(13) and 46(10), shall have effect as if in each case after paragraph (d) there were inserted—

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"(dd) any person who has been given access to him by virtue of an existing order."

Annotations:

Commencement Information

I314 Sch. 14 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Enforcement of certain existing orders

10 (1) Sub-paragraph (2) applies in relation to any existing order which, but for the repeal by this Act of—

(a) section 13(1) of the Guardianship [M96]of Minors Act 1971;

(b) section 43(1) of the [M97]Children Act 1975; or

(c) section 33 of the [M98]Domestic Proceedings and Magistrates' Courts Act 1978,

(provisions concerning the enforcement of custody orders) might have been enforced as if it were an order requiring a person to give up a child to another person.

(2) Where this sub-paragraph applies, the existing order may, after the repeal of the enactments mentioned in sub-paragraph (1)(a) to (c), be enforced under section 14 as if—

(a) any reference to a residence order were a reference to the existing order; and

(b) any reference to a person in whose favour the residence order is in force were a reference to a person to whom actual custody of the child is given by an existing order which is in force.

(3) In sub-paragraph (2) "actual custody", in relation to a child, means the actual possession of his person.

Annotations:

Commencement Information

I315 Sch. 14 para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M96 1971 c. 3.

M97 1975 c. 72.

M98 1978 c. 22.

Discharge of existing orders

11 (1) The making of a residence order or a care order with respect to a child who is the subject of an existing order discharges the existing order.

(2) Where the court makes any section 8 order (other than a residence order) with respect to a child with respect to whom any existing order is in force, the existing order shall have effect subject to the section 8 order.

(3) The court may discharge an existing order which is in force with respect to a child—

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(a) in any family proceedings relating to the child or in which any question arises with respect to the child's welfare; or

(b) on the application of—

(i) any parent or guardian of the child;

(ii) the child himself; or

(iii) any person named in the order.

(4) A child may not apply for the discharge of an existing order except with the leave of the court.

(5) The power in sub-paragraph (3) to discharge an existing order includes the power to discharge any part of the order

(6) In considering whether to discharge an order under the power conferred by sub-paragraph (3) the court shall, if the discharge of the order is opposed by any party to the proceedings, have regard in particular to the matters mentioned in section 1(3).

Annotations:

Commencement Information

I316 Sch. 14 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

GUARDIANS

Existing guardians to be guardians under this Act

12 (1) Any appointment of a person as guardian of a child which—

(a) was made—

(i) under sections 3 to 5 of the [M99]Guardianship of Minors Act 1971;

(ii) under section 38(3) of the [M100]Sexual Offences Act 1956; or

(iii) under the High Court's inherent jurisdiction with respect to children; and

(b) has taken effect before the commencement of section 5,

shall (subject to sub-paragraph (2)) be deemed, on and after the commencement of section 5, to be an appointment made and having effect under that section.

(2) Where an appointment of a person as guardian of a child has effect under section 5 by virtue of sub-paragraph (1)(a)(ii), the appointment shall not have effect for a period which is longer than any period specified in the order.

Annotations:

Modifications etc. (not altering text)

C94 Sch. 14 para. 12 amended (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1C** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para.1**)

Commencement Information

I317 Sch. 14 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Marginal Citations
M99 1971 c. 3.
M100 1956 c. 69.

Appointment of guardian not yet in effect

13 Any appointment of a person to be a guardian of a child—

(a) which was made as mentioned in paragraph 12(1)(a)(i); but

(b) which, immediately before the commencement of section 5, had not taken effect,

shall take effect in accordance with section 5 (as modified, where it applies, by paragraph 8(2)).

Annotations:

Modifications etc. (not altering text)
C95 Sch. 14 para. 13 amended (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1C** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para. 1**)

Commencement Information
I318 Sch. 14 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Persons deemed to be appointed as guardians under existing wills

14 For the purposes of the [M101]Wills Act 1837 and of this Act any disposition by will and testament or devise of the custody and tuition of any child, made before the commencement of section 5 and paragraph 1 of Schedule 13, shall be deemed to be an appointment by will of a guardian of the child.

Annotations:

Modifications etc. (not altering text)
C96 Sch. 14 para. 14 amended (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1C** (as inserted by S.I 1991/1990, art. 2(c), Sch. para.1)

Commencement Information
I319 Sch. 14 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M101 1837 c. 26.

CHILDREN IN CARE

Children in compulsory care

15 (1) Sub-paragraph (2) applies where, immediately before the day on which Part IV comes into force, a person was—

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(a) in care by virtue of—

(i) a care order under section 1 of the [M102]Children and Young Persons Act 1969;

(ii) a care order under section 15 of that Act, on discharging a supervision order made under section 1 of that Act; or

(iii) an order or authorisation under section 25 or 26 of that Act;

[F925](b) . . . . . .

(c) in care—

(i) under section 2 of the [M103]Child Care Act 1980; or

(ii) by virtue of paragraph 1 of Schedule 4 to that Act (which extends the meaning of a child in care under section 2 to include children in care under section 1 of the [M104]Children Act 1948),

and a child in respect of whom a resolution under section 3 of the Act of 1980 or section 2 of the Act of 1948 was in force;

(d) a child in respect of whom a resolution had been passed under section 65 of the Child Care Act 1980;

(e) in care by virtue of an order under—

(i) section 2(1)(e) of the [M105]Matrimonial Proceedings (Magistrates' Courts) Act 1960;

(ii) section 7(2) of the [M106]Family Law Reform Act 1969;

(iii) section 43(1) of the [M107]Matrimonial Causes Act 1973; or

(iv) section 2(2)(b) of the [M108]Guardianship Act 1973;

(v) section 10 of the [M109]Domestic Proceedings and Magistrates' Courts Act 1978,

(orders having effect for certain purposes as if the child had been received into care under section 2 of the Child Care Act 1980);

(f) in care by virtue of an order made, on the revocation of a custodianship order, under section 36 of the [M110]Children Act 1975; [F926]. . .

(g) in care by virtue of an order made, on the refusal of an adoption order, under section 26 of the [M111]Adoption Act 1976 or any order having effect (by virtue of paragraph 1 of Schedule 2 to that Act) as if made under that section.

[[F927]; or—

(h) in care by virtue of an order of the court made in the exercise of the High Court's inherent jurisdiction with respect to children,**]**

(2) Where this sub-paragraph applies, then, on and after the day on which Part IV commences—

(a) the order or resolution in question shall be deemed to be a care order;

(b) the authority in whose care the person was immediately before that commencement shall be deemed to be the authority designated in that deemed care order; and

(c) any reference to a child in the care of a local authority shall include a reference to a person who is the subject of such a deemed care order,

and the provisions of this Act shall apply accordingly, subject to paragraph 16.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Annotations:

Amendments (Textual)

F925 Sch. 14 para. 15(1)(b) repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

F926 Word in Sch. 14 para. 15(1) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

F927 Sch. 14 para. 15(1)(h) added (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 33(2)**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I320 Sch. 14 para. 15 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M102 1969 c. 54.
M103 1980 c. 5.
M104 1948 c. 43.
M105 1960 c. 48.
M106 1969 c. 46.
M107 1973 c. 18.
M108 1973 c. 29.
M109 1978 c. 22.
M110 1975 c. 72.
M111 1976 c. 36.

Modifications

16 (1) Sub-paragraph (2) only applies where a person who is the subject of a care order by virtue of paragraph 15(2) is a person falling within sub-paragraph (1)(a) [F928]. . . of that paragraph.

(2) Where the person would otherwise have remained in care until reaching the age of nineteen, by virtue of—

(a) section 20(3)(a) or 21(1) of the Children [M112]and Young Persons Act 1969; [F929] . . .

(b) . . . . . .

this Act applies as if in section 91(12) for the word “eighteen" there were substituted “ nineteen" ”

[F930](3) . . . . . .

[[F931](3A) Where in respect of a child who has been placed or allowed to remain in the care of a local authority pursuant to section 7(2) of the Family Law Reform Act 1969 or in the exercise of the High Court’s inherent jurisdiction and the child is still in the care of a local authority, proceedings have ceased by virtue of paragraph 1 (1A) to be treated as pending, paragraph 15(2) shall apply on 14th October 1992 as if the child was in care pursuant to an order as specified in paragraph 15(1)(e)(ii) or (h) as the case may be.**]**

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(4) **[**F932Sub-paragraphs (5) and (6) only apply**]**where a child who is the subject of a care order by virtue of paragraph 15(2) is a person falling within sub-paragraph (1)(e) to **[**F933(h)**]**of that paragraph.

(5) **[**F934Subject to sub-paragraph (6),**]**Where a court, on making the order, or at any time thereafter, gave directions **[**F935-

(a) under section 4(4)(a) of the Guardianship Act 1973;

(b) under section 43(5)(a) of the Matrimonial Causes Act 1973; or

(c) in the exercise of the High Court's inherent jurisdiction with respect to children,**]**

as to the exercise by the authority of any powers, those directions shall **[**F936, subject to the provisions of section 25 of this Act and of any regulations made under that section,**]**continue to have effect (regardless of any conflicting provision in this Act **[**F937other than section 25**]**) until varied or discharged by a court under this sub-paragraph.

[F938(6) Where directions referred to in sub-paragraph (5) are to the effect that a child be placed in accommodation provided for the purpose of restricting liberty then the directions shall cease to have effect upon the expiry of the maximum period specified by regulations under section 25(2)(a) in relation to children of his description, calculated from 14th October 1991.**]**

Annotations:

Amendments (Textual)

F928 Words in Sch. 14 para. 16(1) repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

F929 Sch. 14 para. 16(2)(b) and the word "or" immediately preceding it repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

F930 Sch. 14 para. 16(3) repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

F931 Sch. 14 para. 16(3A) inserted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1D** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para. 1**)

F932 Words in Sch. 14 para. 16(4) substituted by S.I. 1991/828, art. 4, **Sch. para. 1**

F933 "(h)" in Sch. 14 para. 16(4) substituted (14.10.1991) for "(g)" by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 33(3)(a)**; S.I. 1991/1883, art. 3, **Sch.**

F934 Words in Sch. 14 para. 16(5) inserted by S.I. 1991/828, art. 4, **Sch. para. 2(a)**

F935 Sch. 14 para. 16(5)(a)(b)(c) substituted (14.10.1991) for the words from "under" to "1973" by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 33(3)(b)**; S.I. 1991/1883,art. 3, Sch.

F936 Words in Sch. 14 para. 16(5) inserted by S.I. 1991/828, art. 4, **Sch. para. 2(b)**

F937 Words in Sch. 14 para. 16(5) inserted by S.I. 1991/828, art. 4, **Sch. para. 2(c)**

F938 Sch. 14 para. 16(6) inserted by S.I. 1991/828, art. 4, **Sch. para. 3**

Commencement Information

I321 Sch. 14 para. 16 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M112 1969 c. 54.

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Cessation of wardship where ward in care

[F939[F940]16(A)] Where a child who is a ward of court is in care by virtue of—

(a) an order under section 7(2) of the Family Law Reform Act 1969; or

(b) an order made in the exercise of the High Court's inherent jurisdication with respect to children,

he shall, on the day on which Part IV commences, cease to be a ward of court.

[F941(2) Where immediately before the day on which Part IV commences a child was in the care of a local authority and as a result of an order—

(a) pursuant to section 7(2) of the Family Law Reform Act 1969; or

(b) made in the exercise of the High Court's inherent jurisdiction with respect to children,

continued to be in the care of a local authority and was made a ward of court, he shall on the day on which Part IV commences, cease to be a ward of court.]

(3) Sub-paragraphs (1) and (2) do not apply in proceedings which are pending.]

Annotations:

Amendments (Textual)

F939 Sch. 14 para. 16A inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 33(4)**; S.I. 1991/1883, art. 3, **Sch.**

F940 Words in Sch. 14 para. 16A inserted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 4(a)** (as substituted by S.I. 1991/1990, art. 2(c), **Sch. para.2**)

F941 Sch. 14 para. 16A(2)(3) inserted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 4(b)** (as substituted by S.I. 1991/1990, art. 2(c), **Sch. para.2**)

Children placed with parent etc. while in compulsory care

17 (1) This paragraph applies where a child is deemed by paragraph 15 to be in the care of a local authority under an order or resolution which is deemed by that paragraph to be a care order.

(2) If, immediately before the day on which Part III comes into force, the child was allowed to be under the charge and control of—

(a) a parent or guardian under section 21(2) of the [M113]Child Care Act 1980; or

(b) a person who, before the child was in the authority's care, had care and control of the child by virtue of an order falling within paragraph 5,

on and after that day the provision made by and under section 23(5) shall apply as if the child had been placed with the person in question in accordance with that provision.

Annotations:

Commencement Information

I322 Sch. 14 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M113 1980 c. 5.

Status: *This version of this Act contains provisions that are prospective.*
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Orders for access to children in compulsory care

18 (1) This paragraph applies to any access order—

(a) made under section 12C of the Child Care Act 1980 (access orders with respect to children in care of local authorities); and

(b) in force immediately before the commencement of Part IV.

(2) On and after the commencement of Part IV, the access order shall have effect as an order made under section 34 in favour of the person named in the order.

Annotations:

Commencement Information

I323 Sch. 14 para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[[F942]18A (1) This paragraph applies to any decision of a local authority to terminate arrangements for access or to refuse to make such arrangements—

(a) of which notice has been given under, and in accordance with, section 12B of the Child Care Act 1980 (termination of access); and

(b) which is in force immediately before the commencement of Part IV.

(2) On and after the commencement of Part IV, a decision to which this paragraph applies shall have effect as a court order made under section 34(4) authorising the local authority to refuse to allow contact between the child and the person to whom notice was given under section 12B of the Child Care Act 1980.**]**

Annotations:

Amendments (Textual)

F942 Sch. 14 para. 18A inserted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 5**

19 (1) This paragraph applies where, immediately before the commencement of Part IV, an access order made under section 12C of the Act of 1980 was suspended by virtue of an order made under section 12E of that Act (suspension of access orders in emergencies).

(2) The suspending order shall continue to have effect as if this Act had not been passed.

(3) If—

(a) before the commencement of Part IV; and

(b) during the period for which the operation of the access order is suspended,

the local authority concerned made an application for its variation or discharge to an appropriate **[**[F943]youth court**]**, its operation shall be suspended until the date on which the application to vary or discharge it is determined or abandoned.

Annotations:

Amendments (Textual)

F943 Words in Sch. 14 para. 19 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(1)(2)(r)**; S.I. 1992/333, art. 2(2), **Sch. 2**.

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Commencement Information
I324 Sch. 14 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Children in voluntary care

20 (1) This paragraph applies where, immediately before the day on which Part III comes into force—

(a) a child was in the care of a local authority—

(i) under section 2(1) of the Child Care [M114]Act 1980; or

(ii) by virtue of paragraph 1 of Schedule 4 to that Act (which extends the meaning of references to children in care under section 2 to include references to children in care under section 1 of the [M115]Children Act 1948); and

(b) he was not a person in respect of whom a resolution under section 3 of the Act of 1980 or section 2 of the Act of 1948 was in force.

(2) Where this paragraph applies, the child shall, on and after the day mentioned in sub-paragraph (1), be treated for the purposes of this Act as a child who is provided with accommodation by the local authority under Part III, but he shall cease to be so treated once he ceases to be so accommodated in accordance with the provisions of Part III.

(3) Where—

(a) this paragraph applies; and

(b) the child, immediately before the day mentioned in sub-paragraph (1), was (by virtue of section 21(2) of the Act of 1980) under the charge and control of a person falling within paragraph 17(2)(a) or (b),

the child shall not be treated for the purposes of this Act as if he were being looked after by the authority concerned.

Annotations:

Commencement Information
I325 Sch. 14 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M114 1980 c. 5.
M115 1948 c. 43.

Boarded out children

21 (1) Where, immediately before the day on which Part III comes into force, a child in the care of a local authority—

(a) was—

(i) boarded out with a person under section 21(1)(a) of the Child Care Act 1980; or

(ii) placed under the charge and control of a person, under section 21(2) of that Act; and

(b) the person with whom he was boarded out, or (as the case may be) placed, was not a person falling within paragraph 17(2)(a) or (b),

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on and after that day, he shall be treated (subject to sub-paragraph (2)) as having been placed with a local authority foster parent and shall cease to be so treated when he ceases to be placed with that person in accordance with the provisions of this Act.

(2) Regulations made under section 23(2)(a) shall not apply in relation to a person who is a local authority foster parent by virtue of sub-paragraph (1) before the end of the period of twelve months beginning with the day on which Part III comes into force and accordingly that person shall for that period be subject—

(a) in a case falling within sub-paragraph (1)(a)(i), to terms and regulations mentioned in section 21(1)(a) of the Act of 1980; and

(b) in a case falling within sub-paragraph (1)(a)(ii), to terms fixed under section 21(2) of that Act and regulations made under section 22A of that Act,

as if that Act had not been repealed by this Act.

Annotations:

Commencement Information

I326 Sch. 14 para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Children in care to qualify for advice and assistance

22 Any reference in Part III to a person qualifying for advice and assistance shall be construed as including a reference to a person within the area of the local authority in question who is under twenty-one and who was, at any time after reaching the age of sixteen but while still a child—

(a) a person falling within—

(i) any of paragraphs (a) to **[**F944(h)**]** of paragraph 15(1); or

(ii) paragraph 20(1); or

(b) the subject of a criminal care order (within the meaning of paragraph 34).

Annotations:

Amendments (Textual)

F944 "h" in Sch. 14 para. 22(a)(i) substituted (14.10.1991) for "g" by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 33(5)**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I327 Sch. 14 para. 22 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Emigration of children in care

23 Where—

(a) the Secretary of State has received a request in writing from a local authority that he give his consent under section 24 of the Child M116Care Act 1980 to the emigration of a child in their care; but

(b) immediately before the repeal of the Act of 1980 by this Act, he has not determined whether or not to give his consent,

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section 24 of the Act of 1980 shall continue to apply (regardless of that repeal) until the Secretary of State has determined whether or not to give his consent to the request.

Annotations:

Commencement Information
I328 Sch. 14 para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M116 1980 c. 5.

Contributions for maintenance of children in care

24 (1) Where, immediately before the day on which Part III of Schedule 2 comes into force, there was in force an order made (or having effect as if made) under any of the enactments mentioned in sub-paragraph (2), then, on and after that day—

(a) the order shall have effect as if made under paragraph 23(2) of Schedule 2 against a person liable to contribute; and

(b) Part III of Schedule 2 shall apply to the order, subject to the modifications in sub-paragraph (3).

(2) The enactments are—

(a) section 11(4) of the Domestic [M117]Proceedings and Magistrates' Courts Act 1978;

(b) section 26(2) of the [M118]Adoption Act 1976;

(c) section 36(5) of the [M119]Children Act 1975;

(d) section 2(3) of the [M120]Guardianship Act 1973;

(e) section 2(1)(h) of the [M121]Matrimonial Proceedings (Magistrates' Courts) Act 1960,

(provisions empowering the court to make an order requiring a person to make periodical payments to a local authority in respect of a child in care).

(3) The modifications are that, in paragraph 23 of Schedule 2—

(a) in sub-paragraph (4), paragraph (a) shall be omitted;

(b) for sub-paragraph (6) there shall be substituted—

"(6) Where—

(a) a contribution order is in force;

(b) the authority serve a contribution notice under paragraph 22; and

(c) the contributor and the authority reach an agreement under paragraph 22(7) in respect of the contribution notice,

the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect"; and

(c) at the end of sub-paragraph (10) there shall be inserted—

"and

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(c) where the order is against a person who is not a parent of the child, shall be made with due regard to—

(i) whether that person had assumed responsibility for the maintenance of the child, and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;

(ii) whether he did so knowing that the child was not his child;

(iii) the liability of any other person to maintain the child."

Annotations:

Commencement Information

I329 Sch. 14 para. 24 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M117 1978 c. 22.
M118 1976 c. 36.
M119 1975 c. 72.
M120 1973 c. 29.
M121 1960 c. 48.

SUPERVISION ORDERS

25 (1) This paragraph applies to any supervision order—

(a) made—

(i) under section 1(3)(b) of the Children [M122]and Young Persons Act 1969; or

(ii) under section 21(2) of that Act on the discharge of a care order made under section 1(3)(c) of that Act; and

(b) in force immediately before the commencement of Part IV.

(2) On and after the commencement of Part IV, the order shall be deemed to be a supervision order made under section 31 and—

(a) any requirement of the order that the child reside with a named individual shall continue to have effect while the order remains in force, unless the court otherwise directs;

(b) any other requirement imposed by the court, or directions given by the supervisor, shall be deemed to have been imposed or given under the appropriate provisions of Schedule 3.

(3) Where, immediately before the commencement of Part IV, the order had been in force for a period of **[**[F945]six months or more**]**, it shall cease to have effect at the end of the period of six months beginning with the day on which Part IV comes into force unless—

(a) the court directs that it shall cease to have effect at the end of a different period (which shall not exceed three years);

(b) it ceases to have effect earlier in accordance with section 91; or

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(c) it would have ceased to have had effect earlier had this Act not been passed.

(4) Where sub-paragraph (3) applies, paragraph 6 of Schedule 3 shall not apply.

(5) Where, immediately before the commencement of Part IV, the order had been in force for less than six months it shall cease to have effect in accordance with section 91 and paragraph 6 of Schedule 3 unless—

(a) the court directs that it shall cease to have effect at the end of a different period (which shall not exceed three years); or

(b) it would have ceased to have had effect earlier had this Act not been passed.

Annotations:

Amendments (Textual)

F945 Words in Sch. 14 para. 25 substituted (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 6**

Commencement Information

I330 Sch. 14 para. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M122 1969 c. 54.

Other supervision orders

26 (1) This paragraph applies to any order for the supervision of a child which was in force immediately before the commencement of Part IV and was made under—

(a) section 2(1)(f) of the Matrimonial [M123]Proceedings (Magistrates Courts) Act 1960;

(b) section 7(4) of the [M124]Family Law Reform Act 1969;

(c) section 44 of the [M125]Matrimonial Causes Act 1973;

(d) section 2(2)(a) of the [M126]Guardianship Act 1973;

(e) section 34(5) or 36(3)(b) of the [M127]Children Act 1975;

(f) section 26(1)(a) of the [M128]Adoption Act 1976; or

(g) section 9 of the [M129]Domestic Proceedings and Magistrates Courts Act 1978.

(2) The order shall not be deemed to be a supervision order made under any provision of this Act but shall nevertheless continue in force for a period of one year beginning with the day on which Part IV comes into force unless—

(a) the court directs that it shall cease to have effect at the end of a lesser period; or

(b) it would have ceased to have had effect earlier had this Act not been passed.

Annotations:

Commencement Information

I331 Sch. 14 para. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M123 1960 c. 48.

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M124 1969 c. 46.
M125 1973 c. 18.
M126 1973 c. 29.
M127 1975 c. 72.
M128 1976 c. 36.
M129 1978 c. 22.

PLACE OF SAFETY ORDERS

27 (1) This paragraph applies to—

(a) any order or warrant authorising the removal of a child to a place of safety which—

(i) was made, or issued, under any of the enactments mentioned in sub-paragraph (2); and

(ii) was in force immediately before the commencement of Part IV; and

(b) any interim order made under section 23(5) of the Children [M130]and Young Persons Act 1963 or section 28(6) of the Children and Young Persons Act [M131]1969.

(2) The enactments are—

(a) section 40 of the [M132]Children and Young Persons Act 1933 (warrant to search for or remove child);

(b) section 28(1) of the [M133]Children and Young Persons Act 1969 (detention of child in place of safety);

(c) section 34(1) of the [M134]Adoption Act 1976 (removal of protected children from unsuitable surroundings);

(d) section 12(1) of the [M135]Foster Children Act 1980 (removal of foster children kept in unsuitable surroundings).

(3) The order or warrant shall continue to have effect as if this Act had not been passed.

(4) Any enactment repealed by this Act shall continue to have effect in relation to the order or warrant so far as is necessary for the purposes of securing that the effect of the order is what it would have been had this Act not been passed.

(5) Sub-paragraph (4) does not apply to the power to make an interim order or further interim order given by section 23(5) of the [M136]Children and Young Persons Act 1963 or section 28(6) of the Children and Young Persons Act 1969.

(6) Where, immediately before section 28 of the Children and Young Persons Act 1969 is repealed by this Act, a child is being detained under the powers granted by that section, he may continue to be detained in accordance with that section but subsection (6) shall not apply.

Annotations:

Commencement Information
I332 Sch. 14 para. 27 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M130 1963 c. 37.

Status: *This version of this Act contains provisions that are prospective.*
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M131 1969 c. 54.
M132 1933 c. 12.
M133 1969 c. 54.
M134 1976 c. 36.
M135 1980 c. 6.
M136 1963 c. 37.

Recovery of children

28 The repeal by this Act of subsection (1) of section 16 of the [M137]Child Care Act 1980 (arrest of child absent from compulsory care) shall not affect the operation of that section in relation to any child arrested before the coming into force of the repeal.

Annotations:

Commencement Information
I333 Sch. 14 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M137 1980 c. 5.

29 (1) This paragraph applies where—

(a) a summons has been issued under section 15 or 16 of the Child Care Act 1980 (recovery of children in voluntary or compulsory care); and

(b) the child concerned is not produced in accordance with the summons before the repeal of that section by this Act comes into force.

(2) The summons, any warrant issued in connection with it and section 15 or (as the case may be) section 16, shall continue to have effect as if this Act had not been passed.

Annotations:

Commencement Information
I334 Sch. 14 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

30 The amendment by paragraph 27 of Schedule 12 of section 32 of the Children and Young Persons Act 1969 (detention of absentees) shall not affect the operation of that section in relation to—

(a) any child arrested; or

(b) any summons or warrant issued,

under that section before the coming into force of that paragraph.

Annotations:

Commencement Information
I335 Sch. 14 para. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Voluntary organisations: Parental rights resolutions

31 (1) This paragraph applies to a resolution—

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(a) made under section 64 of the Child Care Act 1980 (transfer of parental rights and duties to voluntary organisations); and

(b) in force immediately before the commencement of Part IV.

(2) The resolution shall continue to have effect until the end of the period of six months beginning with the day on which Part IV comes into force unless it is brought to an end earlier in accordance with the provisions of the Act of 1980 preserved by this paragraph.

(3) While the resolution remains in force, any relevant provisions of, or made under, the Act of 1980 shall continue to have effect with respect to it.

(4) Sub-paragraph (3) does not apply to—

(a) section 62 of the Act of 1980 and any regulations made under that section (arrangements by voluntary organisations for emigration of children); or

(b) section 65 of the Act of 1980 (duty of local authority to assume parental rights and duties).

(5) Section 5(2) of the Act of 1980 (which is applied to resolutions under Part VI of that Act by section 64(7) of that Act) shall have effect with respect to the resolution as if the reference in paragraph (c) to an appointment of a guardian under section 5 of the [M138]Guardianship of Minors Act 1971 were a reference to an appointment of a guardian under section 5 of this Act.

Annotations:

Commencement Information

I336 Sch. 14 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M138 1971 c. 3.

Foster children

32 (1) This paragraph applies where—

(a) immediately before the commencement of Part VIII, a child was a foster child within the meaning of the [M139]Foster Children Act 1980; and

(b) the circumstances of the case are such that, had Parts VIII and IX then been in force, he would have been treated for the purposes of this Act as a child who was being provided with accommodation in a children's home and not as a child who was being privately fostered.

(2) If the child continues to be cared for and provided with accommodation as before, section 63(1) and (10) shall not apply in relation to him if—

(a) an application for registration of the home in question is made under section 63 before the end of the period of three months beginning with the day on which Part VIII comes into force; and

(b) the application has not been refused or, if it has been refused—

(i) the period for an appeal against the decision has not expired; or

(ii) an appeal against the refusal has been made but has not been determined or abandoned.

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(3) While section 63(1) and (10) does not apply, the child shall be treated as a privately fostered child for the purposes of Part IX.

Annotations:

Commencement Information
I337 Sch. 14 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M139 1980 c. 6.

Nurseries and child minding

33 (1) Sub-paragraph (2) applies where, immediately before the commencement of Part X, any premises are registered under section 1(1)(a) of the [M140]Nurseries and Child-Minders Regulation Act 1948 (registration of premises, other than premises wholly or mainly used as private dwellings, where children are received to be looked after).

(2) During the transitional period, the provisions of the Act of 1948 shall continue to have effect with respect to those premises to the exclusion of Part X.

(3) Nothing in sub-paragraph (2) shall prevent the local authority concerned from registering any person under section 71(1)(b) with respect to the premises.

(4) In this paragraph "the transitional period" means the period ending with—

(a) the first anniversary of the commencement of Part X; or

(b) if earlier, the date on which the local authority concerned registers any person under section 71(1)(b) with respect to the premises.

Annotations:

Commencement Information
I338 Sch. 14 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M140 1948 c. 53.

34 (1) Sub-paragraph (2) applies where, immediately before the commencement of Part X —

(a) a person is registered under section 1(1)(b) of the Act of 1948 (registration of persons who for reward receive into their homes children under the age of five to be looked after); and

(b) all the children looked after by him as mentioned in section 1(1)(b) of that Act are under the age of five.

(2) During the transitional period, the provisions of the Act of 1948 shall continue to have effect with respect to that person to the exclusion of Part X.

(3) Nothing in sub-paragraph (2) shall prevent the local authority concerned from registering that person under section 71(1)(a).

(4) In this paragraph "the transitional period" means the period ending with—

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(a) the first anniversary of the commencement of Part X; or

(b) if earlier, the date on which the local authority concerned registers that person under section 71(1)(a).

Annotations:

Commencement Information

I339 Sch. 12 para. 34 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Children accommodated in certain establishments

35 In calculating, for the purposes of section 85(1)(a) or 86(1)(a), the period of time for which a child has been accommodated any part of that period which fell before the day on which that section came into force shall be disregarded.

Annotations:

Commencement Information

I340 Sch. 14 para. 35 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Criminal care orders

36 (1) This paragraph applies where, immediately before the commencement of section 90(2) there was in force an order ("a criminal care order") made—

(a) under section 7(7)(a) of the [M141]Children and Young Persons Act 1969 (alteration in treatment of young offenders etc.); or

(b) under section 15(1) of that Act, on discharging a supervision order made under section 7(7)(b) of that Act.

(2) The criminal care order shall continue to have effect until the end of the period of six months beginning with the day on which section 90(2) comes into force unless it is brought to an end earlier in accordance with—

(a) the provisions of the Act of 1969 preserved by sub-paragraph (3)(a); or

(b) this paragraph.

(3) While the criminal care order remains in force, any relevant provisions—

(a) of the Act of 1969; and

(b) of the [M142]Child Care Act 1980,

shall continue to have effect with respect to it.

(4) While the criminal care order remains in force, a court may, on the application of the appropriate person, make—

(a) a residence order;

(b) a care order or a supervision order under section 31;

(c) an education supervision order under section 36 (regardless of subsection (6) of that section); or

(d) an order falling within sub-paragraph (5),

and shall, on making any of those orders, discharge the criminal care order.

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(5) The order mentioned in sub-paragraph (4)(d) is an order having effect as if it were a supervision order of a kind mentioned in section 12AA of the Act of 1969 (as inserted by paragraph 23 of Schedule 12), that is to say, a supervision order—

(a) imposing a requirement that the child shall live for a specified period in local authority accommodation; but

(b) in relation to which the conditions mentioned in **[**F946subsection (6)**]** of section 12AA are not required to be satisfied.

(6) The maximum period which may be specified in an order made under sub-paragraph (4)(d) is six months and such an order may stipulate that the child shall not live with a named person.

(7) Where this paragraph applies, section 5 of the M143Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences) shall have effect regardless of the repeals in it made by this Act.

(8) In sub-paragraph (4) "appropriate person" means—

(a) in the case of an application for a residence order, any person (other than a local authority) who has the leave of the court;

(b) in the case of an application for an education supervision order, a local education authority; and

(c) in any other case, the local authority to whose care the child was committed by the order.

Annotations:

Amendments (Textual)

F946 Words in Sch. 14 para. 36(5)(b) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 33(6)**; S.I. 1991/1883, **art. 3**,Sch.

Commencement Information

I341 Sch. 14 para. 36 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M141 1969 c. 54.
M142 1980 c. 5.
M143 1974 c. 53.

MISCELLANEOUS

Consents under the Marriage Act 1949 (c. 76)

37 (1) In the circumstances mentioned in sub-paragraph (2), section 3 of and Schedule 2 to the Marriage Act 1949 (consents to marry) shall continue to have effect regardless of the amendment of that Act by paragraph 5 of Schedule 12.

(2) The circumstances are that—

(a) immediately before the day on which paragraph 5 of Schedule 12 comes into force, there is in force—

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(i) an existing order, as defined in paragraph 5(1); or

(ii) an order of a kind mentioned in paragraph 16(1); and

(b) section 3 of and Schedule 2 to the Act of 1949 would, but for this Act, have applied to the marriage of the child who is the subject of the order.

Annotations:

Commencement Information

I342 Sch. 14 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Children Act 1975 (c. 72)

38 The amendments of other enactments made by the following provisions of the Children Act 1975 shall continue to have effect regardless of the repeal of the Act of 1975 by this Act—

(a) section 68(4), (5) and (7) (amendments of section 32 of the [M144]Children and Young Persons Act 1969); and

(b) in Schedule 3—

(i) paragraph 13 (amendments of [M145]Births and Deaths Registration Act 1953);

(ii) paragraph 43 (amendment of [M146]Perpetuities and Accumulations Act 1964);

(iii) paragraphs 46 and 47 (amendments of [M147]Health Services and Public Health Act 1968); and

(iv) paragraph 77 (amendment of [M148]Parliamentary and Other Pensions Act 1972).

Annotations:

Extent Information

E9 Sch. 14 para. 38(a) extends to Northern Ireland see s. 108(12)

Commencement Information

I343 Sch. 14 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M144 1969 c. 54.
M145 1953 c. 20.
M146 1964 c. 55.
M147 1968 c. 46.
M148 1972 c. 48.

The Child Care Act 1980 (c. 5)

39 The amendment made to section 106(2)(a) of the [M149]Children and Young Persons Act 1933 by paragraph 26 of Schedule 5 to the Child Care Act 1980 shall continue to have effect regardless of the repeal of the Act of 1980 by this Act.

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Annotations:

Commencement Information
I344 Sch. 14 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations
M149 1933 c. 12.

Legal aid

F947 40 . . . . . .

Annotations:

Amendments (Textual)
F947 Sch. 14 para. 40 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(i), **Sch.**

SCHEDULE 15

Section 108(7).

REPEALS

Annotations:

Extent Information
E10 Sch. 15: for extent see s. 108(11)(12)

Commencement Information
I345 Sch. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

1891 c. 3.	The Custody of Children Act 1891.	The whole Act.
1933 c. 12.	The Children and Young Persons Act 1933.	In section 14(2), the words from “may also" to “together, and".
		In section 34(8), “(a)" and the words from “and (b)" to the end.
		Section 40.
		In section 107(1), the definitions of “care order" and “interim order".
1944 c. 31.	The Education Act 1944.	In section 40(1), the words from “or to imprisonment" to the end.

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		In section 114(1), the definition of parent.
1948 c. 53.	The Nurseries and Child-Minders Regulation Act 1948.	The whole Act.
1949 c. 76.	The Marriage Act 1949.	In section 3(1), the words “unless the child is subject to a custodianship order, when the consent of the custodian and, where the custodian is the husband or wife of a parent of the child of that parent shall be required".
		Section 78(1A).
		Schedule 2.
1956 c. 69.	The Sexual Offences Act 1956.	Section 38.
1959 c. 72.	The Mental Health Act 1959.	Section 9.
1963 c. 37.	The Children and Young Persons Act 1963.	Section 3.
		Section 23.
		In section 29(1), the words “under section 1 of the Children and Young Persons Act 1969 or".
		Section 53(3).
		In Schedule 3, paragraph 11.
1964 c. 42.	The Administration of Justice Act 1964.	In section 38, the definition of “domestic court".
1968 c. 46.	The Health Services and Public Health Act 1968.	Section 60.
		In section 64(3)(a), sub-paragraphs (vi), (vii), (ix) and (xv).
		In section 65(3)(b), paragraphs (vii), (viii) and (x).
1968 c. 49.	The Social Work (Scotland) Act 1968.	Section 1(4)(a).
		Section 5(2)(d).
		In section 86(3), the words “the Child Care Act 1980 or".
		In Schedule 8, paragraph 20.

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1969 c. 46.	The Family Law Reform Act 1969.	Section 7.
1969 c. 54.	The Children and Young Persons Act 1969.	Sections 1 to 3.
		In section 7, in subsection (7) the words “to subsection (7A) of this section and", paragraph (a) and the words from “and subsection (13) of section 2 of this Act" to the end; and subsection (7A).
		Section 7A.
		In section 8(3), the words from “and as if the reference to acquittal" to the end.
		In section 9(1), the words “proceedings under section 1 of this Act or".
		Section 11A.
		Section 14A.
		In section 15, in subsection (1) the words “and may on discharging the supervision order make a care order (other than an interim order) in respect of the supervised person"; in subsection (2) the words “and the supervision order was not made by virtue of section 1 of this Act or on the occasion of the discharge of a care order"; in subsection (2A), the words “or made by a court on discharging a care order made under that subsection"; and in subsection (4), the words “or made by a court on discharging a care order made under that section".
		In section 16, in subsection (6)(a), the words “a care order or"; and in subsection (8) the words “or, in a case where a parent or guardian of his was a party to the proceedings on an application under the

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		preceding section by virtue of an order under section 32A of this Act, the parent or guardian".
		In section 17, paragraphs (b) and (c).
		Sections 20 to 22.
		Section 27(4).
		Section 28.
		Sections 32A to 32C.
		In section 34(2) the words “under section 1 of this Act or", the words “2(3) or" and the words “and accordingly in the case of such a person the reference in section 1(1) of this Act to the said section 2(3) shall be construed as including a reference to this subsection".
		In section 70, in subsection (1), the definitions of “care order" and “interim order"; and in subsection (2) the words “21(2), 22(4) or (6) or 28(5)" and the words “care order or warrant".
		In Schedule 5, paragraphs 12(1), 37, 47 and 48.
1970 c. 34.	The Marriage (Registrar General’s Licence) Act 1970.	In section 3(b), the words from “as amended" to “1969".
1970 c. 42.	The Local Authority Social Services Act 1970.	In Schedule 1, in the entry relating to the Children and Young Persons Act 1969, the words “welfare, etc. of foster children"; the entries relating to the Matrimonial Causes Act 1973, section 44, the Domestic Proceedings and Magistrates’ Courts Act 1978, section 9, the Child Care Act 1980 and the Foster Children Act 1980.
1971 c. 3.	The Guardianship of Minors Act 1971.	The whole Act.

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1971 c. 23.	The Courts Act 1971.	In Schedule 8, paragraph 59(1).
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 41.
1972 c. 70.	The Local Government Act 1972.	In Schedule 23, paragraphs 4 and 9(3).
1972 c. 71.	The Criminal Justice Act 1972.	Section 51(1).
1973 c. 18.	The Matrimonial Causes Act 1973.	Sections 42 to 44.
		In section 52(1), the definition of “custody".
		In Schedule 2, paragraph 11.
1973 c. 29.	The Guardianship Act 1973.	The whole Act.
1973 c. 45.	The Domicile and Matrimonial Proceedings Act 1973.	In Schedule 1, in paragraph 11(1) the definitions of “custody" and “education" and in paragraph 11(3) the word “four".
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In section 13(1), the words “and the purposes of section 1(2)(bb) of the Children and Young Persons Act 1969".
		In Schedule 3, in paragraph 3(2A), the word “and" immediately preceding paragraph (b).
1974 c. 53.	The Rehabilitation of Offenders Act 1974.	In section 1(4)(b) the words “or in care proceedings under section 1 of the Children and Young Persons Act 1969".
		In section 5, in subsection 5(e), the words “a care order or"; and in subsection (10) the words “care order or".
1975 c. 72.	The Children Act 1975.	The whole Act.
1976 c. 36.	The Adoption Act 1976.	Section 11(5).
		Section 14(3).
		In section 15, in subsection (1), the words

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		from “subject" to “cases)" and subsection (4).
		Section 26.
		In section 28(5), the words “or the organisation".
		Section 34.
		Section 36(1)(c).
		Section 37(1), (3) and (4).
		Section 55(4).
		In section 57, in subsection (2), the words from “and the court" to the end and subsections (4) to (10).
		In section 72(1), the definition of “place of safety", in the definition of “local authority" the words from “ and" to the end and, in the definition of “specified order", the words “Northern Ireland or".
		In Schedule 3, paragraphs 8, 11, 19, 21, and 22.
1977 c. 45.	The Criminal Law Act 1977.	Section 58(3).
1977 c. 49.	The National Health Service Act 1977.	In section 21, in subsection (1)(a) the words “and young children".
		In Schedule 8, in paragraph 1(1), the words from “and of children" to the end; in paragraph 2(2) the words from “or (b) to persons who" to “arrangements"; and in paragraph 3(1) “(a)" and the words from “or (b) a child" to “school age".
		In Schedule 15, paragraphs 10 and 25.
1978 c. 22.	The Domestic Proceedings and Magistrates’ Courts Act 1978.	Sections 9 to 15.
		In section 19, in subsection (1) the words “following powers, that is to

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		say" and sub-paragraph (ii), subsections (2) and (4), in subsection (7) the words “and one interim custody order" and in subsection (9) the words “or 21".
		In section 20, subsection (4) and in subsection (9) the words “subject to the provisions of section 11(8) of this Act".
		Section 21.
		In section 24, the words “or 21" in both places where they occur.
		In section 25, in subsection (1) paragraph (b) and the word “or" immediately preceding it and in subsection (2) paragraphs (c) and (d).
		Section 29(4).
		Sections 33 and 34.
		Sections 36 to 53.
		Sections 64 to 72.
		Sections 73(1) and 74(1) and (3).
		In section 88(1), the definition of “actual custody".
		In Schedule 2, paragraphs 22, 23, 27, 29, 31, 36, 41 to 43, 46 to 50.
1978 c. 28.	The Adoption (Scotland) Act 1978.	In section 20(3)(c), the words “section 12(3)(b) of the Adoption Act 1976 or of".
		In section 45(5), the word “approved".
		Section 49(4).
		In section 65(1), in the definition of “local authority", the words from “and" to the end and, in the definition of “specified

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		order", the words “Northern Ireland or".
1978 c. 30.	The Interpretation Act 1978.	In Schedule 1, the entry with respect to the construction of certain expressions relating to children.
1980 c. 5.	The Child Care Act 1980.	The whole Act.
1980 c. 6.	The Foster Children Act 1980.	The whole Act.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 65(1), paragraphs (e) and (g) and the paragraph (m) inserted in section 65 by paragraph 82 of Schedule 2 to the Family Law Reform Act 1987.
		In section 81(8), in the definition of “guardian" the words “by deed or will" and in the definition of “sums adjudged to be paid by a conviction" the words from “as applied" to the end.
		In section 143(2), paragraph (i).
		In Schedule 7, paragraphs 78, 83, 91, 92, 110, 116, 117, 138, 157, 158, 165, 166 and 199 to 201.
1981 c. 60.	The Education Act 1981.	In Schedule 3, paragraph 9.
1982 c. 20.	The Children’s Homes Act 1982.	The whole Act.
1982 c. 48.	The Criminal Justice Act 1982.	Sections 22 to 25.
		Section 27.
		In Schedule 14, paragraphs 45 and 46.
1983 c. 20.	The Mental Health Act 1983.	In section 26(5), paragraph (d) and the word “or" immediately preceding it.
		In section 28(1), the words “(including an order under section 38 of the Sexual Offences Act 1956)".

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		In Schedule 4, paragraphs 12, 26(a), (b) and (c), 35, 44, 50 and 51.
1983 c. 41.	The Health and Social Services and Social Security Adjudications Act 1983.	Section 4(1).
		Sections 5 and 6.
		In section 11, in subsection (2) the words “the Child Care Act 1980 and the Children’s Homes Act 1982".
		In section 19, subsections (1) to (5).
		Schedule 1.
		In Schedule 2, paragraphs 3, 9 to 14, 20 to 24, 27, 28, 34, 37 and 46 to 62.
		In Schedule 4, paragraphs 38 to 48.
		In Schedule 9, paragraphs 5, 16 and 17.
1984 c. 23.	The Registered Homes Act 1984.	In Schedule 1, in paragraph 5, sub-paragraph (a) and paragraphs 6, 7 and 8.
1984 c. 28.	The County Courts Act 1984.	In Schedule 2, paragraph 56.
1984 c. 37.	The Child Abduction Act 1984.	In section 3, the word “and" immediately preceding paragraph (c).
		In the Schedule, in paragraph 1(2) the words “or voluntary organisation" and paragraph 3(1)(e).
1984 c. 42.	The Matrimonial and Family Proceedings Act 1984.	In Schedule 1, paragraphs 19 and 23.
1984 c. 56.	The Foster Children (Scotland) Act 1984.	In section 1, the words “for a period of more than 6 days" and the words from “The period" to the end.
		In section 7(1), the word “or" at the end of paragraph (e).
		In Schedule 2, paragraphs 1 to 3 and 8.
1984 c. 60.	The Police and Criminal Evidence Act 1984.	In section 37(15), the words “and is not excluded from

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		this Part of this Act by section 52 below".
		Section 39(5).
		Section 52.
		In section 118(1), in the definition of parent or guardian, paragraph (b) and the word “and" immediately preceding it.
		In Schedule 2, the entry relating to section 16 of the Child Care Act 1980.
		In Schedule 6, paragraphs 19(a) and 22.
1985 c. 23.	The Prosecution of Offences Act 1985.	Section 27.
1985 c. 60.	The Child Abduction and Custody Act 1985.	Section 9(c).
		Section 20(2)(b) and (c).
		Section 25(3) and (5).
		In Schedule 3, paragraph 1(2).
1986 c. 28.	The Children and Young Persons (Amendment) Act 1986.	The whole Act.
1986 c. 33.	The Disabled Persons (Services, Consultation and Representation) Act 1986.	In section 16, in the definition of “guardian", paragraph (a).
1986 c. 45.	The Insolvency Act 1986.	In section 281(5)(b), the words “in domestic proceedings".
1986 c. 50.	The Social Security Act 1986.	In Schedule 10, paragraph 51.
1986 c. 55.	The Family Law Act 1986.	In section 1(2), in paragraph (a) the words “(a) or" and paragraph (b).
		Section 3(4) to (6).
		Section 4.
		Section 35(1).
		In section 42(6), in paragraph (b) the words “section 42(6) of the Matrimonial Causes Act

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Children Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

		1973 or", in paragraph (c) the words “section 42(7) of that Act or" and in paragraph (d) the words “section 19(6) of the Domestic Proceedings and Magistrates’ Courts Act 1978 or".
		In Schedule 1, paragraphs 10, 11, 13, 16, 17, 20 and 23.
1987 c. 42.	The Family Law Reform Act 1987.	Section 3.
		Sections 4 to 7.
		Sections 9 to 16.
		In Schedule 2, paragraphs 11, 14, 51, 67, 68, 94 and 95.
		In Schedule 3, paragraphs 11 and 12.
1988 c. 34.	The Legal Aid Act 1988.	Section 3(4)(c).
		Section 27.
		Section 28.
		In section 30, subsections (1) and (2).
		In Part I of Schedule 2, paragraph 2(a) and (e).

Status:
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Changes to legislation:
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Changes and effects yet to be applied to :

- s. 24(2)(d)(i) text amended by S.I. 2010/1158 Sch. 2 para. 37(2)
- s. 24C(2)(b) text amended by S.I. 2010/1158 Sch. 2 para. 37(3)(a)
- s. 24C(4) inserted by S.I. 2010/1158 Sch. 2 para. 37(3)(b)
- s. 27(3)(b) repealed by S.I. 2010/1158 Sch. 2 para. 37(4) Sch. 3 Pt. 2
- s. 28 repealed by S.I. 2010/1158 Sch. 2 para. 37(5) Sch. 3 Pt. 2
- s. 30(3) repealed by S.I. 2010/1158 Sch. 2 para. 37(6)(a) Sch. 3 Pt. 2
- s. 30(4) text amended by S.I. 2010/1158 Sch. 2 para. 37(6)(b)
- s. 31 modified by S.I. 2010/1898 reg. 5(3)(a)
- s. 31A modified by S.I. 2010/1898 reg. 5(3)(b)
- s. 36(1) text amended by S.I. 2010/1158 Sch. 2 para. 37(7)(a)
- s. 36(7) text amended by S.I. 2010/1158 Sch. 2 para. 37(7)(b)
- s. 36(8) text amended by S.I. 2010/1158 Sch. 2 para. 37(7)(c)
- s. 38 modified by S.I. 2010/1898 reg. 5(2)
- s. 41 modified by S.I. 2010/1898 reg. 5(3)(c)
- s. 47 text amended by S.I. 2010/1158 Sch. 2 para. 37(8)(a)
- s. 47(11)(b) repealed by S.I. 2010/1158 Sch. 2 para. 37(8)(b) Sch. 3 Pt. 2
- s. 62(6)(c) text amended by S.I. 2010/813 art. 7(2)
- s. 80(1)(c) text amended by S.I. 2010/1158 Sch. 2 para. 37(9)(a)
- s. 80(1)(i) repealed by 2010 nawm 1 Sch. 1 para. 6(a) Sch. 2
- s. 80(5)(e) text amended by S.I. 2010/1158 Sch. 2 para. 37(9)(b)(i) Sch. 3 Pt. 2
- s. 80(5)(f) repealed by S.I. 2010/1158 Sch. 2 para. 37(9)(b)(ii) Sch. 3 Pt. 2
- s. 80(5)(g) text amended by S.I. 2010/1158 Sch. 2 para. 37(9)(b)(iii) Sch. 3 Pt. 2
- s. 80(5)(h)(hh) repealed by 2010 nawm 1 Sch. 1 para. 6(b) Sch. 2
- s. 80(5)(dc) inserted by S.I. 2010/1080 Sch. 1 para. 89(a)
- s. 80(13) text amended by S.I. 2010/1080 Sch. 1 para. 89(b)
- s. 85(1) text amended by S.I. 2010/1158 Sch. 2 para. 37(10)(a)
- s. 85(2A) inserted by S.I. 2010/1158 Sch. 2 para. 37(10)(b)
- s. 87(4) text amended by S.I. 2010/1158 Sch. 2 para. 37(11)
- s. 87(4A) text amended by S.I. 2010/1158 Sch. 2 para. 37(11)
- s. 87(10) text amended by S.I. 2010/1080 Sch. 1 para. 90(a)
- s. 87(10) text amended by S.I. 2010/1158 Sch. 2 para. 37(11)
- s. 87(11)(c) text amended by S.I. 2010/1080 Sch. 1 para. 90(b)
- s. 87B(2) text amended by S.I. 2010/1158 Sch. 2 para. 37(12)
- s. 94 modified by S.I. 2010/985 reg. 6
- s. 97(2)-(9) repealed by 2010 c. 26 Sch. 3 para. 10 Sch. 4 Pt. 2
- s. 104(1) text amended by 2010 c. 26 Sch. 3 para. 11
- s. 105(1) text amended by 2010 nawm 1 Sch. 1 para. 7(a)
- s. 105(1) text amended by S.I. 2010/1158 Sch. 2 para. 37(13) Sch. 3 Pt. 2
- s. 105(1) text amended by S.I. 2010/813 art. 7(3)
- s. 105(5A) repealed by 2010 nawm 1 Sch. 1 para. 7(b) Sch. 2
- Sch. 3 para. 17(1)(c) text amended by S.I. 2010/1158 Sch. 2 para. 37(14)(a)
- Sch. 3 para. 19(1) text amended by S.I. 2010/1158 Sch. 2 para. 37(14)(b)
- Sch. 8 para. 5 modified by S.I. 2010/985 reg. 5 Sch. 4
- Sch. 9A para. 1(1)(b) text amended by S.I. 2010/1158 Sch. 2 para. 37(15)
- Sch. 11 applied by 2010 nawm 1 s. 43(4)
- Sch. 11 para. 8(c) text amended by 2010 c. 26 Sch. 4 Pt. 2
- Sch. 12 para. 11-14 repealed by 2003 c. 42 Sch. 7

- Sch. 12 para. 16 repealed by 2003 c. 42 Sch. 7
- Sch. 13 para. 14 repealed by 2010 c. 26 Sch. 4 Pt. 2
- Sch. 13 para. 26(1)(b) repealed by S.I. 2010/1158 Sch. 3 Pt. 2

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2010/1907 reg. 16 Sch. 2
- Act applied (with modifications) by S.I. 2010/875 reg. 16 Sch. 2 (This SI was revoked before it came into force by SI 2010/1906, reg. 2)
- Act modified by S.I. 2010/1116 art. 2

Commencement Orders yet to be applied to the Children Act 1989:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2010/507 art. 2-5 commences (2009 c. 26)
- S.I. 2010/749 art. 2 commences (2008 c. 23)
- S.I. 2010/987 art. 2 commences (2008 c. 22)
- S.I. 2010/1329 art. 2 commences (2008 c. 23)
- S.I. 2010/2582 art. 2 Sch. 1 commences (2010 nawm 1)
- S.I. 2010/2714 art. 2 commences (2008 c. 23)
- S.I. 2010/2921 art. 2 3 commences (2003 c. 39)
- S.I. 2010/2981 art. 2-4 commences (2008 c. 23)
- S.I. 2011/824 art. 2 commences (2008 c. 23)
- S.I. 2011/949 art. 3 commences (2008 c. 23)