



# Child Care Act 1980

## 1980 CHAPTER 5

### PART VI

#### VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

##### *Definition of voluntary home*

#### **56 Definition of voluntary home**

In this Act, except where otherwise indicated, the expression "voluntary home" means any home or other institution for the boarding, care and maintenance of poor children, being either—

- (a) a home or other institution supported wholly or partly by voluntary contributions, or
- (b) a home or other institution supported wholly or partly by endowments, not being a school within the meaning of the Education Act 1944,

but does not in either case include a mental nursing home within the meaning of the Nursing Homes Act 1975 or a residential home for mentally disordered persons within the meaning of the Residential Homes Act 1980.

##### *Registration etc. of voluntary homes*

#### **57 Registration of voluntary homes**

- (1) No voluntary home shall be carried on unless it is for the time being registered in a register to be kept for the purposes of this section by the Secretary of State.
- (2) Application for registration under this section shall be made by the persons intending to carry on the home to which the application relates, and shall be made in such manner, and accompanied by such particulars, as the Secretary of State may by regulations prescribe.

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- (3) On an application duly made under subsection (2) above the Secretary of State may either grant or refuse the application, as he thinks fit, but where he refuses the application he shall give the applicant notice in writing of the refusal.
- (4) Where at any time it appears to the Secretary of State that the conduct of any voluntary home is not in accordance with regulations made or directions given under section 60 of this Act or is otherwise unsatisfactory, he may, after giving to the persons carrying on the home not less than twenty-eight days' notice in writing of his proposal to do so, remove the home from the register.
- (5) Any person who carries on a voluntary home in contravention of the provisions of subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.
- (6) Where—
- (a) a voluntary home is carried on in contravention of the provisions of subsection (1) above, or
  - (b) notice of a proposal to remove a voluntary home from the register is given under subsection (4) above,

the Secretary of State may, notwithstanding that the time for any appeal under section 58 of this Act has not expired or that such an appeal is pending, notify the local authority in whose area the home is situated and require them forthwith to remove from the home and receive into their care under section 2 of this Act all or any of the children for whom accommodation is being provided in the home; and the local authority shall comply with the requirement whether or not the circumstances of the children are such that they fall within paragraphs (a) to (c) of subsection (1) of that section and notwithstanding that any of the children may appear to the local authority to be over the age of seventeen.

For the purposes of carrying out the duty of the local authority under this subsection, any person authorised in that behalf by the local authority may enter any premises in which the home in question is being carried on.

- (7) Where the Secretary of State registers a home under this section or removes a home from the register he shall notify the local authority in whose area the home is situated.
- (8) Any notice under this section required to be given by the Secretary of State to the persons carrying on, or intending to carry on, a voluntary home may be given to those persons by being delivered personally to any one of them, or being sent by post in a registered letter to them or any one of them.

For the purposes of section 7 of the Interpretation Act 1978 (which defines "service by post") a letter enclosing a notice under this section to the persons carrying on a voluntary home or anyone of them shall be deemed to be properly addressed if it is addressed to them or him at the home.

## 58 Appeals

- (1) Where under section 57 of this Act application for the registration of a voluntary home is refused, or it is proposed to remove a voluntary home from the register, the persons intending to carry on or carrying on the home, as the case may be, may within fourteen days from the giving of the notice under subsection (3) or subsection (4) of that section appeal against the refusal or proposal; and where the appeal is brought

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against a proposal to remove a home from the register, the home shall not be removed therefrom before the determination of the appeal.

- (2) An appeal under this section shall be brought by notice in writing addressed to the Secretary of State requiring him to refer the refusal or proposal to an appeal tribunal constituted in accordance with the provisions of Schedule 3 to this Act.
- (3) On an appeal under this section the appeal tribunal may confirm the refusal or proposal of the Secretary of State or may direct that the home shall be registered or, as the case may be, shall not be removed from the register, and the Secretary of State shall comply with the direction.
- (4) The Lord Chancellor may with the concurrence of the Lord President of the Council make rules as to the practice and procedure to be followed with respect to the constitution of appeal tribunals for the purposes of this section, as to the manner of making appeals to such tribunals, and as to proceedings before such tribunals and matters incidental or consequential on such proceedings; and without prejudice to the generality of the foregoing provisions of this subsection such rules may make provision as to the particulars to be supplied by or to the Secretary of State of matters relevant to the determination of the appeal and as to representation before such tribunals, whether by counsel or solicitor or otherwise.
- (5) The Secretary of State may out of moneys provided by Parliament—
  - (a) pay to members of tribunals constituted for the purposes of this section such fees and allowances as he may with the consent of the Minister for the Civil Service determine;
  - (b) defray the expenses of such tribunals up to such amount as he may with the like consent determine.
- (6) The provisions of the Arbitration Act 1950 shall not apply to any proceedings before a tribunal constituted for the purposes of this section except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section.

## **59 Notification of particulars with respect to voluntary homes**

- (1) It shall be the duty of the person in charge of any voluntary home established after the commencement of this Act to send to the Secretary of State within three months from the establishment of the home such particulars with respect to the home as the Secretary of State may by regulations prescribe.
- (2) It shall be the duty of the person in charge of any voluntary home (whether established before or after the commencement of this Act) to send to the Secretary of State—
  - (a) in the case of a home established before the commencement of this Act, in every year, or
  - (b) in the case of a home established after the commencement of this Act, in every year subsequent to the year in which particulars are sent under subsection (1) above,by such date as the Secretary of State may by regulations prescribe, such particulars with respect to the home as may be so prescribed.
- (3) Where the Secretary of State by regulations varies the particulars which are to be sent to him under subsection (1) or (2) above by the person in charge of a voluntary home—

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- (a) the person in charge of such a home shall send to the Secretary of State the prescribed particulars within three months from the date of the making of the regulations;
  - (b) where any such home was established before, but not more than three months before, the making of the regulations, compliance with paragraph (a) above shall be sufficient compliance with the requirement of subsection (1) above to send the prescribed particulars within three months from the establishment of the home;
  - (c) in the year in which the particulars are varied, compliance with paragraph (a) above by the person in charge of any voluntary home shall be sufficient compliance with the requirement of subsection (2) above to send the prescribed particulars before the prescribed date in that year.
- (4) If default is made in sending the prescribed particulars with respect to any voluntary home in accordance with the requirements of this section, the person in charge of the home shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25 and to a further fine not exceeding £1 in respect of each day during which the default continues after conviction.

*Regulations as to voluntary homes and organisations*

**60 Regulations as to conduct of voluntary homes**

- (1) The Secretary of State may make regulations as to the conduct of voluntary homes and for securing the welfare of the children therein, and regulations under this section may in particular—
- (a) impose requirements as to the accommodation and equipment to be provided in homes, authorise the Secretary of State to give directions prohibiting the provision for the children in any home of clothing of any description specified in the directions, and impose requirements as to the medical arrangements to be made for protecting the health of the children in the homes;
  - (b) require the furnishing to the Secretary of State of information as to the facilities provided for the parents and guardians of children in the homes to visit and communicate with the children and authorise the Secretary of State to give directions as to the provision of such facilities;
  - (c) authorise the Secretary of State to give directions limiting the number of children who may at any one time be accommodated in any particular home;
  - (d) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home and empower the Secretary of State to prohibit the appointment of any particular applicant therefor except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed by the regulations ;
  - (e) require notice to be given to the Secretary of State of any change of the person in charge of a home; and
  - (f) impose requirements as to the facilities which are to be given for children to receive a religious upbringing appropriate to the persuasion to which they belong;

and may contain different provisions for different descriptions of cases and as respects different descriptions of homes.

- (2) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation or any requirement or direction thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

#### **61 Regulations as to the boarding out of children by voluntary organisations**

- (1) The power conferred by Part III of this Act on the Secretary of State to make regulations as to the boarding out of children by local authorities shall extend also to the boarding out of children by voluntary organisations, subject to the modification that in the provisions of the said Part III conferring that power any reference to the supervision and inspection by a local authority of boarded out children and the premises in which they are boarded out shall, in relation to children boarded out by voluntary organisations, be deemed to be a reference to supervision and inspection either by a local authority or, where it is so provided by or under the regulations, by a voluntary organisation.
- (2) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

#### **62 Regulations as to arrangements by voluntary organisations for emigration of children**

- (1) The Secretary of State may by regulations control the making and carrying out by voluntary organisations of arrangements for the emigration of children.
- (2) Any regulations made under this section may contain such consequential and incidental provisions as appear to the Secretary of State to be necessary or expedient, including, in particular, provisions for requiring information to be given to the Secretary of State as to the operations or intended operations of the organisation and for enabling the Secretary of State to be satisfied that suitable arrangements have been or will be made for the children's reception and welfare in the country to which they are going.
- (3) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

#### *Restriction on removal of child from care of voluntary organisation*

#### **63 Restriction of removal of child from care of voluntary organisation**

- (1) Section 13(1) of this Act shall apply in relation to children who are not in the care of local authorities under section 2 of this Act but who are in voluntary homes or are boarded out, as it applies by virtue of subsection (2) of that section to children in the care of the local authority, except that in the case of a child who is not in the care of a local authority the references in subsection (2) of that section to a local authority shall be construed as references to the voluntary organisation in whose care the child is.

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- (2) For the purposes of this section a child is boarded out if he is boarded out, by the voluntary organisation in whose care he is, with foster parents to live in their home as a member of their family.

*Transfer of parental rights and duties in relation  
to children in care of voluntary organisations*

**64 Transfer of parental rights and duties to voluntary organisation**

- (1) Where it appears to a local authority as respects a child in the care of a voluntary organisation which is an incorporated body—
- (a) that the child is not in the care of any local authority; and
  - (b) that a condition specified in section 3(1) of this Act is satisfied; and
  - (c) that it is necessary in the interests of the welfare of the child for the parental rights and duties to be vested in the organisation,
- the authority may, subject to subsections (5) and (6) below, resolve that there shall vest in the organisation the parental rights and duties with respect to that child.
- (2) While a resolution under this section is in force the parental rights and duties shall vest in the organisation in whose care the child is when the resolution is passed.
- (3) If, immediately before the resolution is passed, the parental rights and duties are vested in the parent in relation to whom the resolution is passed jointly with any other person, then on the passing of the resolution the parental rights and duties shall vest jointly in that other person and the organisation in whose care the child is.
- (4) In determining for the purposes of subsection (1) above whether the condition specified in section 3(1)(b)(i) of this Act is satisfied, if the whereabouts of any parent of the child have remained unknown for twelve months, that parent shall be deemed to have abandoned the child.
- (5) A resolution under subsection (1) above may not be passed by a local authority in respect of any child unless—
- (a) the child is living in the area of the authority either in a voluntary home or with foster parents with whom he has been boarded by the organisation in whose care he is; and
  - (b) that organisation has requested the authority to pass the resolution.
- (6) The parental rights and duties which may vest in an organisation by virtue of this section do not include—
- (a) the right to consent or refuse to consent to the making of an application under section 18 of the Adoption Act 1976 (orders freeing a child for adoption in England and Wales) or section 18 of the Adoption (Scotland) Act 1978 (orders freeing a child for adoption in Scotland) and
  - (b) the right to agree or refuse to agree to the making of an adoption order or an order under section 55 of the Adoption Act 1976 (orders in England and Wales authorising adoption abroad) or section 49 of the Adoption (Scotland) Act 1978 (orders in Scotland authorising adoption abroad),
- and regulations made under section 62 of this Act shall apply to the emigration of a child notwithstanding that the parental rights and duties relating to the child are vested in the voluntary organisation.

- (7) Section 5(2) of this Act shall apply in relation to a resolution under subsection (1) above as if it were a resolution under section 3 of this Act.

#### **65 Duty of local authority to assume parental rights and duties**

- (1) Where the parental rights and duties with respect to a child are by virtue of a resolution under section 64 of this Act vested in a voluntary organisation, then, if it appears to the local authority for the area in which the child is living that, having regard to the interests of the welfare of the child, it is necessary that the parental rights and duties should no longer be vested in the organisation, the local authority shall resolve that there shall vest in them the parental rights and duties relating to the child.
- (2) The local authority shall within seven days of passing a resolution under subsection (1) above by notice in writing inform the organisation and each parent, guardian or custodian of the child whose whereabouts are known to them that the resolution has been passed.

#### **66 Effect of resolutions under ss. 64 and 65**

- (1) A resolution under subsection (1) of section 64 of this Act shall cease to have effect on the passing of a resolution under subsection (1) of section 65 of this Act.
- (2) Section 8 of this Act shall have effect in relation to a resolution under subsection (1) of section 64 of this Act as it has effect in relation to a resolution under section 3 of this Act.
- (3) A resolution under subsection (1) of section 65 of this Act shall be deemed to be a resolution under section 3 of this Act except that sections 3(2) to (7), 4(1) and 5(4) of this Act shall not apply.

#### **67 Appeals by parents etc.**

- (1) Subsections (2) to (7) of section 3 of this Act shall apply to a resolution under section 64 of this Act as they apply to a resolution under the said section 3, with the substitution for the reference in subsection (2) to the vesting of parental rights and duties in the local authority of a reference to the vesting of parental rights and duties in the voluntary organisation.
- (2) An appeal may be made—
- (a) where the complaint relates to a resolution under section 64 of this Act, by a person deprived of parental rights and duties by the resolution, or
  - (b) where the complaint relates to a resolution under section 65 of this Act, by a person who but for that resolution and an earlier resolution under section 64 would have parental rights and duties,
- to a juvenile court having jurisdiction in the area of the authority which passed the resolution, on the ground that—
- (i) there was no ground for the making of the resolution, or
  - (ii) that the resolution should in the interests of the child be determined.
- (3) An appeal shall lie to the High Court against the decision of a juvenile court under this section.
- (4) Section 7 of this Act shall apply in relation to proceedings under this section.

*Visiting of children in voluntary homes*

**68 Visiting of children in voluntary homes**

- (1) It shall be the duty of local authorities from time to time to cause children in voluntary homes in their area, other than community homes, to be visited in the interests of the well-being of the children, and any person authorised in that behalf by a local authority may enter any such voluntary home in the area of the authority for the purpose of visiting the children in the home.
- (2) Any person authorised in that behalf by a local authority may enter any voluntary home outside the area of the authority for the purpose of visiting children in the home who are in the care of the authority under section 2 of this Act or are for the time being committed to the care of the authority by a care order or by a warrant under section 23(1) of the Children and Young Persons Act 1969 (which relates to remands in the care of local authorities).
- (3) Nothing in subsection (1) or (2) above shall apply to a voluntary home which, otherwise than by virtue of section 74 of this Act, is as a whole subject to inspection by or under the authority of a government department.
- (4) A person who proposes to exercise any power of entry or inspection conferred by this section shall if so required produce some duly authenticated document showing his authority to exercise the power.
- (5) Any person who obstructs the exercise of any power of entry or inspection conferred by this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25 or, in the case of a second or subsequent conviction, to a fine not exceeding £50

*After-care of children formerly in care of voluntary organisations*

**69 After-care of children formerly in care of voluntary organisations**

- (1) Where it comes to the knowledge of a local authority that there is in their area any child over compulsory school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer, in the care of a voluntary organisation, then, unless the authority are satisfied that the welfare of the child does not require it, they shall be under a duty so long as he has not attained the age of eighteen to advise and befriend him; but if the local authority are satisfied that the voluntary organisation have the necessary facilities for advising and befriending the child, the local authority may make arrangements whereby, while the arrangements continue in force, he shall be advised and befriended by the voluntary organisation instead of by the local authority.
- (2) Where a child over compulsory school age ceases to be in the care of a voluntary organisation, the organisation shall inform the local authority for the area in which the child proposes to reside.
- (3) Where it comes to the knowledge of a local authority or a voluntary organisation that a child whom they have been advising and befriending in pursuance of this section proposes to transfer or has transferred his residence to the area of another local authority, the first mentioned local authority or, as the case may be, the voluntary organisation shall inform that other local authority.

*Returns of information*

**70 Returns of information by voluntary organizations**

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 the children who are accommodated and maintained in voluntary homes provided by the organisation or who have been boarded out by the organisation.