



Child Care Act 1980

1980 CHAPTER 5

PART VII

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Advisory Council on Child Care

71 Advisory Council on Child Care

- (1) There shall continue to be a council, to be known as the Advisory Council on Child Care, for the purpose of advising the Secretary of State on matters connected with the discharge of his functions in England and Wales under—
 - (a) this Act,
 - (b) the Children and Young Persons Acts 1933 to 1969,
 - (c) the Children Act 1975, and
 - (d) the Adoption Act 1976.
- (2) The Advisory Council on Child Care shall consist of such persons, to be appointed by the Secretary of State, as the Secretary of State may think fit, being persons specially qualified to deal with matters affecting the welfare of children and persons having such other qualifications as the Secretary of State considers requisite. Among the persons appointed under this subsection there shall be persons having experience in local government.
- (3) The Secretary of State shall appoint a person to be chairman, and a person to be the secretary, of the Advisory Council on Child Care.
- (4) It shall be the duty of the Advisory Council on Child Care to advise the Secretary of State on any matter which the Secretary of State may refer to them, being such a matter as is mentioned in subsection (1) above, and they may also, of their own motion, make representations to the Secretary of State as respects any such matter as is mentioned in that subsection.

Status: This is the original version (as it was originally enacted).

- (5) The Secretary of State may make out of moneys provided by Parliament such payments to the members of the Advisory Council on Child Care in respect of travelling, subsistence and other expenses as he may with the consent of the Minister for the Civil Service determine.

Powers and duties of local authorities

72 Accommodation of persons over school age in convenient community home

A local authority may provide accommodation in a community home for any person who is over compulsory school age but has not attained the age of twenty-one if the community home is provided for children who are over compulsory school age and is near the place where that person is employed or seeking employment or receiving education or training.

73 Provisions as to places of safety etc.

- (1) Local authorities shall make provision in community homes provided by them or in controlled community homes for the reception and maintenance of—
- (a) children removed to a place of safety under the Children and Young Persons Act 1933, sections 2(5), 16(3) or 28 of the Children and Young Persons Act 1969, section 34 of the Adoption Act 1976, or section 12 of the Foster Children Act 1980, and
 - (b) children detained by them in pursuance of arrangements under section 29(3) of the Children and Young Persons Act 1969.
- (2) Where under any of the enactments mentioned in subsection (1) above a child is removed to a place of safety, not being a community home provided by a local authority or a controlled community home and not being a hospital vested in the Secretary of State, the expenses of the child's maintenance there shall be recoverable from the local authority within whose area the child was immediately before his removal.

Inspection and Inquiries

74 Inspection of children's homes etc. by persons authorised by Secretary of State

- (1) Subject to subsection (2) below, the Secretary of State may cause to be inspected from time to time—
- (a) any community home provided by a local authority under section 34 of this Act;
 - (b) any voluntary home (whether a community home or not);
 - (c) any premises in which a child is living with a person (other than his parent, guardian, relative or custodian) with whom he has been placed by an adoption agency within the meaning of section 1 of the Adoption Act 1976;
 - (d) any other premises at which one or more children in the care of a local authority are being accommodated and maintained;
 - (e) any other premises at which one or more children are being boarded out by a voluntary organisation, and

- (f) any other premises where a protected child within the meaning of Part III of the Adoption Act 1976 or a foster child within the meaning of the Foster Children Act 1980, or a child to whom any of the provisions of the said Act of 1980 are extended by section 17 or 18 thereof, is being accommodated or maintained.
- (2) Subsection (1) above does not apply to any home or other premises which is as a whole subject to inspection by or under the authority of a government department.
- (3) An inspection under this section shall be conducted by a person authorised in that behalf by the Secretary of State, but an officer of a local authority shall not be so authorised except with the consent of that authority.
- (4) Any person inspecting a home or other premises under this section may inspect the children therein and make such examination into the state and management of the home or other premises and the treatment of children therein as he thinks fit.

75 Powers of entry supplemental to s. 74

- (1) A person authorised to inspect any home or other premises under section 74 of this Act shall have a right to enter the home or other premises for that purpose and for any other purpose specified in subsection (4) of that section, but shall if so required produce some duly authenticated document showing his authority to exercise the power of entry conferred by this subsection.
- (2) A person who obstructs the exercise by a person authorised as mentioned in subsection (1) above of a power of entry conferred thereby shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5 or, in the case of a second or subsequent conviction, to a fine not exceeding £20.
- (3) A refusal to allow any such person as is mentioned in subsection (1) above to enter any such home or other premises as are mentioned in section 74(1) of this Act shall be deemed, for the purposes of section 40 of the Children and Young Persons Act 1933 (which relates to search warrants), to be a reasonable cause to suspect that a child in the home or other premises is being neglected in a manner likely to cause him unnecessary suffering or injury to health.

76 Inquiries

- (1) The Secretary of State may cause an inquiry to be held into any matter relating to—
 - (a) the functions of the social services committee of a local authority, in so far as those functions relate to children;
 - (b) the functions of an adoption agency within the meaning of section 1 of the Adoption Act 1976;
 - (c) the functions of a voluntary organisation in so far as those functions relate to voluntary homes;
 - (d) a home maintained by the Secretary of State for the accommodation of children who are in the care of local authorities and are in need of the particular facilities and services provided in the home;
 - (e) the detention of a child under section 53 of the Children and Young Persons Act 1933.

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- (2) The Secretary of State may, before an inquiry is commenced, direct that it shall be held in private, but where no such direction has been given, the person holding the inquiry may if he thinks fit hold it or any part of it in private.
- (3) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section.
- (4) In this section—
- " functions " includes powers and duties which a person has otherwise than by virtue of any enactment;
 - " voluntary home " means a home or other institution for the boarding, care and maintenance of poor children which is supported wholly or partly by voluntary contributions, but does not 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.

Research and training

77 Research

- (1) The Secretary of State may conduct or assist other persons in conducting research into any matter connected with his functions or the functions of local authorities under—
- (a) this Act,
 - (b) the Children and Young Persons Acts 1933 to 1969, or
 - (c) the Foster Children Act 1980,
- or any matter connected with the adoption of children.
- (2) Any local authority may conduct or assist other persons in conducting research into any matter connected with their functions under the enactments mentioned in subsection (1) above or their functions connected with the adoption of children.
- (3) Any expenses incurred by the Secretary of State under this section shall be defrayed out of moneys provided by Parliament.

78 Grants for training in child care

- (1) The Secretary of State with the consent of the Treasury may out of moneys provided by Parliament defray or contribute towards any fees or expenses incurred by persons undergoing training approved by the Secretary of State with a view to, or in the course of, their employment for the purposes of any of the enactments specified in subsection (2) below, or their employment by a voluntary organisation for similar purposes, and may defray or contribute towards the cost of maintenance of persons undergoing such training.
- (2) The enactments referred to in subsection (1) above are—
- (a) this Act,
 - (b) Parts III and IV of the Children and Young Persons Act 1933.
 - (c) the Children and Young Persons Act 1963, except Part II and section 56,
 - (d) the Children and Young Persons Act 1969,

- (e) section 7(4) of the Family Law Reform Act 1969, section 44 of the Matrimonial Causes Act 1973 and section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978.
- (f) the Adoption Act 1976,
- (g) the Foster Children Act 1980.

Returns of information and presentation of reports etc. to Parliament

79 Returns of information and presentation of reports etc. to Parliament

- (1) Every local authority shall, at such times and in such form as the Secretary of State may direct, transmit to the Secretary of State such particulars as he may require—
 - (a) with respect to the performance by the local authority of all or any of their functions under the enactments mentioned in subsection (5) below; and
 - (b) with respect to the children in relation to whom the authority have exercised those functions.
- (2) The clerk of each juvenile court 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 proceedings of the court.
- (3) The Secretary of State shall in each year lay before Parliament a consolidated and classified abstract of the information transmitted to him under subsection (1) and (2) above and under section 70 of this Act.
- (4) The Secretary of State shall lay before Parliament in 1982 and in every third subsequent year a report with respect to the exercise by local authorities of their functions under the enactments mentioned in subsection (5) below, the provision by voluntary organisations of facilities for children and such other matters relating to children as he thinks fit.
- (5) The enactments referred to in subsections (1) and (4) above are—
 - (a) this Act,
 - (b) Parts III and IV of the Children and Young Persons Act 1933,
 - (c) section 9 of the Mental Health Act 1959 and section 10 of that Act so far as it relates to children and young persons in respect of whom the rights and powers of a parent are vested in a local authority as mentioned in subsection (1)(a) of that section,
 - (d) section 10 of the Mental Health (Scotland) Act 1960 so far as it relates to children and young persons in respect of whom the rights and powers of a parent are vested in a local authority as mentioned in subsection (1)(a) of that section,
 - (e) the Children and Young Persons Act 1963, except Part II and section 56,
 - (f) the Children and Young Persons Act 1969,
 - (g) section 7(4) of the Family Law Reform Act 1969, section 44 of the Matrimonial Causes Act 1973 and section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978,
 - (h) the Adoption Act 1976,
 - (i) the Foster Children Act 1980.

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Financial Provisions

80 Expenses of Secretary of State in providing homes offering specialised facilities

There shall be defrayed out of moneys provided by Parliament any expenses incurred by the Secretary of State in providing, equipping and maintaining homes for the accommodation of children who are in the care of local authorities and are in need of particular facilities and services which are provided in those homes and are, in the opinion of the Secretary of State, unlikely to be readily available in community homes.

81 Grants in respect of secure accommodation

- (1) The Secretary of State may make to local authorities out of moneys provided by Parliament grants of such amount and subject to such conditions as he may with the consent of the Treasury determine in respect of expenditure incurred by the authorities in providing secure accommodation in community homes other than assisted community homes.
- (2) The Secretary of State may with the consent of the Treasury require the local authority to repay the grant, in whole or in part, if the secure accommodation in respect of which the grant was made (including such accommodation in a controlled community home) ceases to be used as such.
- (3) In this section "secure accommodation" means accommodation provided for the purposes of restricting the liberty of children in a community home.

82 Grants in respect of voluntary homes which are assisted community homes

The Secretary of State may make to voluntary organisations out of moneys provided by Parliament grants of such amounts and subject to such conditions as he may with the consent of the Treasury determine towards expenditure incurred by them in connection with the establishment, maintenance or improvement of voluntary homes which at the time the expenditure was incurred were assisted community homes or were designated as such in a regional plan which was then in operation, including expenses incurred by them in respect of the borrowing of money to defray any such expenditure.

83 Administrative expenses of Secretary of State

Any administrative expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.

Supplementary provisions

84 Prosecution of offences

A local authority may institute proceedings for any offence under section 9(4) or 13(1) of this Act and any offence under Part VI of this Act.

85 Regulations and orders

- (1) Any power conferred on the Secretary of State by this Act to make an order or regulations, except an order under section 35(1) or 40(2) of this Act, shall be exercisable by statutory instrument.
- (2) Any statutory instrument made in exercise of any power to make regulations or orders conferred by this Act, except an instrument containing only an order under section 43 of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any directions given by the Secretary of State under any provision of this Act may be revoked or varied by subsequent directions under that provision.
- (4) Any regulations made by the Secretary of State under section 11 or 39 of this Act or any order made by the Secretary of State under this Act may—
 - (a) make different provision for different circumstances;
 - (b) provide for exemptions from any provisions of the regulations or order; and
 - (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations or order.

86 Provisions as to copies of orders

A document purporting to be a copy—

- (a) of an order made by a court under or by virtue of any of the provisions contained in sections 47, 48 and 49 of this Act, or
 - (b) of an affiliation order referred to in an order under section 49 of this Act,
- shall, if it purports to be certified as a true copy by the clerk of the court, be evidence of the order.

87 Interpretation

- (1) In this Act, unless the context otherwise requires—
 - " arrears order " has the meaning assigned to it by section 51 of this Act;
 - " care order " has the meaning assigned to it by section 20 of the Children and Young Persons Act 1969 ;
 - " child " means a person under the age of eighteen years and any person who has attained that age and is the subject of a care order;
 - " commission area " has the same meaning as in section 1 of the Justices of the Peace Act 1979 ;
 - " compulsory school age " has the same meaning as in the Education Act 1944;
 - " contribution order " has the meaning assigned to it by section 47 of this Act;
 - " functions " includes powers and duties;
 - " guardian " means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child;
 - " hospital " has the meaning assigned to it by section 128(1) of the National Health Service Act 1977 ;
 - " instrument of management " means an instrument of management made under section 35 of this Act;

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" interim order ", in relation to a care order, has the meaning assigned to it by section 20 of the Children and Young Persons Act 1969 ;

" local authority " means the council of a county (other than a metropolitan county), of a metropolitan district or of a London borough or the Common Council of the City of London;

" local education authority " means a local education authority for the purposes of the Education Act 1944 ;

" parent ", in relation to a child who is illegitimate, means his mother, to the exclusion of his father ;

" planning area " has the meaning assigned to it by section 31(1) of this Act;

" regional plan " has the meaning assigned to it by section 32(1) of this Act;

" relative ", in relation to a child, means a grand-parent, brother, sister, uncle or aunt, whether of the full blood, of the half blood, or by affinity, and includes, where the child is illegitimate, the father of the child and any person who would be a relative of the child within the meaning of this definition if the child were the legitimate child of his mother and father;

" the relevant authorities ", in relation to a planning area, has the meaning assigned to it by section 31(3) of this Act;

" supervision requirement" has the same meaning as in the Social Work (Scotland) Act 1968;

" trust deed." has the meaning assigned to it by section 36 of this Act;

" voluntary home " has the meaning assigned to it by section 56 of this Act;

"voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

- (2) Any reference in this Act to an enactment of the Parliament of Northern Ireland shall be construed as a reference to that enactment as amended by any Act of that Parliament or by any Measure of the Northern Ireland Assembly, whether passed before or after this Act, and to any enactment of that Parliament or Assembly for 'the time being in force which re-enacts the said enactment with or without modifications.

88 Application to the Isles of Scilly

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.

89 Transitional provisions, consequential amendments and repeals

- (1) This Act shall have effect subject to the transitional provisions and savings set out in Schedule 4 to this Act.
- (2) The enactments specified in Schedule 5 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.
- (3) The enactments specified in Schedule 6 to this Act are repealed to the extent specified in the third column of that Schedule.
- (4) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section 16 or 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

90 Commencement

- (1) Subject to the provisions of subsections (2), (3) and (4) below, this Act shall come into force on such date as the Secretary of State may by order appoint.
- (2) If, on the date appointed under subsection (1) above, the provision of section 58 of the Children Act 1975 which provides for the insertion into the Children Act 1948 of section 4B (guardians ad litem and reports in care proceedings) is not in force, then section 7 of this Act (and the repeal by this Act of section 58 of the Act of 1975 and section 4B of the Act of 1948) shall not come into force until the date appointed under section 108(2) of the Act of 1975 for the coming into force of that provision.
- (3) If, on the date appointed under subsection (1) above, paragraph 71(b) of Schedule 3 to the Children Act 1975 is not in force, then section 20 of this Act (and the repeal by this Act of the said paragraph 71 and section 27(4) of the Children and Young Persons Act 1969) shall not come into force until the date appointed under section 108(2) of the Act of 1975 for the coming into force of that paragraph; and, until that paragraph is in force, section 20 of this Act shall have effect as if in subsection (1) of that section for the words from " to review the case " to the end of the section there were substituted the words—

“who have at any time had a child in their care throughout the preceding six months and have not during that period held a review of his case in pursuance of this section to review his case as soon as is practicable after the expiration of that period and, if a care order is in force with respect to him, to consider in the course of the review whether to make an application for the discharge of the order”.
- (4) If, on the date appointed under subsection (1) above, sections 60 to 63 of the Children Act 1975 (which relate to the transfer of parental rights and duties to voluntary organisations) are not in force, then sections 64 to 67 of this Act (and the repeal by this Act of the said sections 60 to 63) shall not come into force until the date appointed under section 108(2) of the Act of 1975 for the coming into force of those sections.

91 Short title and extent

- (1) This Act may be cited as the Child Care Act 1980.
- (2) Except for the following provisions, that is to say—
 - (a) section 2(4) and (5),
 - (b) section 16(1), (4) and (5).
 - (c) section 89(2) and paragraphs 2 to 4, 9 to 11, 13, 15, 16, 21 and 22 of Schedule 5,
 - (d) section 89(3) and Schedule 6 so far as they relate to—

the Adoption of Children Act 1949,
the Maintenance Orders Act 1950,
paragraph 38 of Schedule 3 to the Children and Young Persons Act 1963,
the entry relating to the Children Act 1948 in Schedule 3 to the Criminal Justice Act 1967,
the Social Work (Scotland) Act 1968, and section 32(1) of the Children and Young Persons Act 1969,
 - (e) section 90(1), and
 - (f) this section,

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this Act does not extend to Scotland.

(3) Except for the following provisions, that is to say—

- (a) section 16,
- (b) section 89(2) and paragraphs 2 and 3 of Schedule 5,
- (c) section 89(3) and Schedule 6 so far as they relate to—
the Maintenance Orders Act 1950, and
section 32(1) of the Children and Young Persons Act 1969,
- (d) section 90(1), and
- (e) this section,

this Act does not extend to Northern Ireland.

(4) Section 16(1) and (5) of this Act and this section extend to the Channel Islands.

(5) It is hereby declared that the provisions of section 87 of this Act extend to each of the countries aforesaid so far as appropriate for the purposes of any other provision of this Act which extends to the country in question.