



# Children and Young Persons Act 1963

## 1963 CHAPTER 37

### PART II

#### EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

##### **Modifications etc. (not altering text)**

- C1** Pt. II (ss. 34-44): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

#### *General provisions as to employment*

#### **34 Hours of employment.**

For paragraph (c) of section 18(1) of the principal Act (which prohibits the employment of children before six o'clock in the morning or after eight o'clock in the evening) and for paragraph (c) of section 28(1) of the principal Scottish Act (which prohibits such employment before six o'clock in the morning or after seven o'clock in the evening or at certain times of the year eight o'clock in the evening) there shall be substituted the following paragraph:—

“(c) before seven o'clock in the morning or after seven o'clock in the evening on any day ; or”.

##### **Modifications etc. (not altering text)**

- C2** The text of ss. 16(1), 17(1)(2), 25(1), 31, 32, 34, 35(3), 36, 38(2), 43, 57(1), 64(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons Act 1963, Part II. (See end of Document for details)*

### 35 Street trading.

(1) ..... <sup>F1</sup>

(2) Nothing in the said section 20 or section 30 of the principal Scottish Act or in any byelaw made under either of those sections shall restrict the engagement or employment of any person in the carrying on in any place of a retail trade or business (within the meaning of the <sup>M1</sup>Shops Act 1950) on any occasion on which it is customary for retail trades or businesses to be carried on in that place.

[<sup>F2</sup>(3) At the end of the said section 20 there shall be added the following subsection:—

“(3) No person under the age of eighteen shall on a Sunday engage or be employed in street trading of a description to which, notwithstanding section 58 of the Shops Act 1950 (which extends certain provisions to any place where a retail trade or business is carried on), those provisions do not extend.”]

#### Textual Amendments

**F1** S. 35(1) repealed by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), **Sch. 7 Pt. III**

**F2** S. 35(3) repealed (E.W.) (26.8.1994) by [1994 c. 20, s. 9\(2\)](#), **Sch. 5; S.I. 1994/1841, art. 2**

#### Modifications etc. (not altering text)

**C3** The “said section 20” means [Children and Young Persons Act 1933 \(c. 12\)](#), s. 20

**C4** The text of ss. 16(1), 17(1)(2), 25(1), 31, 32, 34, 35(3), 36, 38(2), 43, 57(1), 64(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M1** [1950 c. 28](#).

### 36 Increase of certain penalties.

Section 21 of the principal Act and section 31 of the principal Scottish Act (which impose penalties for contraventions of the general provisions of those Acts as to employment) shall each be amended, as respects offences committed after the commencement of this Act, as follows:—

- (a) in subsection (1) (which provides for fines not exceeding five pounds and twenty pounds for first and subsequent offences respectively) for the words “five pounds” there shall be substituted the words “twenty pounds” and for the words “twenty pounds” the words “fifty pounds”; and
- (b) in subsection (3) (which provides for fines of twenty shillings and forty shillings for first and subsequent offences respectively) for the words “twenty shillings” there shall be substituted the words “ten pounds” and for the words “forty shillings” the words “twenty pounds”.

#### Modifications etc. (not altering text)

**C5** The text of ss. 16(1), 17(1)(2), 25(1), 31, 32, 34, 35(3), 36, 38(2), 43, 57(1), 64(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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### *Entertainment*

#### **37 Restriction on persons under 16 taking part in public performances, etc.**

- [<sup>F3</sup>(1) Subject to the provisions of this section, a child shall not
- (a) take part in a performance to which subsection (2) of this section applies, or
  - (b) otherwise take part in a sport, or work as a model, where payment in respect of his doing so, other than for defraying expenses, is made to him or to another person,]

except under the authority of a licence granted by the local authority in whose area he resides or, if he does not reside in Great Britain, by the local authority in whose area the applicant or one of the applicants for the licence resides or has his place of business.

- (2) This [<sup>F4</sup>subsection] applies to—
- (a) any performance in connection with which a charge is made (whether for admission or otherwise);
  - [<sup>F5</sup>(b) any performance in premises—
    - (i) which, by virtue of an authorisation (within the meaning of section 136 of the Licensing Act 2003), may be used for the supply of alcohol (within the meaning of section 14 of that Act), or
    - (ii) which are licensed premises (within the meaning of the Licensing (Scotland) Act [<sup>F6</sup>2005 (asp 16)]);]
  - (c) any broadcast performance;
  - [<sup>F7</sup>(d) any performance not falling within paragraph ( c ) above but included in a
  - <sup>F8</sup>(d) programme service (within the meaning of the Broadcasting Act 1990); ]
  - (e) any performance recorded (by whatever means) with a view to its use in a broadcast or such a service or in a film intended for public exhibition;]

and a child shall be treated for the purposes of this section as taking part in a performance if he takes the place of a performer in any rehearsal or in any preparation for the recording of the performance.

- (3) A licence under this section shall not be required for any child to take part in a performance to which [<sup>F9</sup>subsection (2) of] this section applies if [<sup>F9</sup>no payment in respect of his taking part in the performance, other than for defraying expenses, is made to him or to another person, and—]
- (a) in the six months preceding the performance he has not taken part in other performances to which [<sup>F10</sup>subsection (2) of] this section applies on more than three days; or
  - (b) the performance is given under arrangements made by a school (within the meaning of [<sup>F11</sup>the Education Act 1996] or the <sup>M2</sup>Education (Scotland) Act 1962) or made by a body of persons approved for the purposes of this section by the Secretary of State or by the local authority in whose area the performance takes place, <sup>F12</sup> . . . ;

but the Secretary of State may by regulations made by statutory instrument prescribe conditions to be observed with respect to the hours of work, rest or meals of children taking part in performances as mentioned in paragraph (a) of this subsection.

- (4) The power to grant licences under this section shall be exercisable subject to such restrictions and conditions as the Secretary of State may by regulations made by statutory instrument prescribe and a local authority shall not grant a licence for a child to [<sup>F13</sup>do anything] unless they are satisfied that he is fit to [<sup>F13</sup>do it], that proper

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provision has been made to secure his health and kind treatment and that, having regard to such provision (if any) as has been or will be made therefor, his education will not suffer; but if they are so satisfied, in the case of an application duly made for a licence under this section which they have power to grant, they shall not refuse to grant the licence.

- (5) Regulations under this section may make different provision for different circumstances and may prescribe, among the conditions subject to which a licence is to be granted, conditions requiring the approval of a local authority and may provide for that approval to be given subject to conditions imposed by the authority.
- (6) Without prejudice to the generality of the preceding subsection, regulations under this section may prescribe, among the conditions subject to which a licence may be granted, a condition requiring sums earned by the child in respect of whom the licence is granted in [<sup>F14</sup>any activity] to which the licence relates to be paid into the county court (or, in Scotland, consigned in the sheriff court) or dealt with in a manner approved by the local authority.
- (7) A licence under this section shall specify the times, if any, during which the child in respect of whom it is granted may be absent from school for the purposes authorised by the licence; and for the purposes of the enactments relating to education a child who is so absent during any times so specified shall be deemed to be absent with leave granted by a person authorised in that behalf by the managers, governors or proprietor of the school or, in Scotland, with reasonable excuse.
- (8) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F3** Words in s. 37(1) substituted for s. 37(1)(a)(b) (4.8.1998) by S.I. 1998/276, **reg. 12(1)(2)**
- F4** Words in s. 37(2) substituted (4.8.1998) by S.I. 1998/276, **reg. 12(1)(3)**
- F5** S. 37(2)(b) substituted (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), **Sch. 6 para. 32** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)
- F6** Words in s. 37(2)(b)(ii) substituted (S.) (1.9.2009 at 5.00 a.m.) by Licensing (Scotland) Act 2005 (asp 16), s. 150(2), **Sch. 6 para. 1** (with s. 143); S.S.I. 2007/472, art. 3
- F7** S. 37(2)(d)(e) substituted by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 12** (which is repealed by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(3), **Sch. 21** the repeal being in force subject as mentioned in art. 3(3) of S.I. 1990/2347)
- F8** Para. (d) substituted by virtue of Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 6**
- F9** Words in s. 37(3) inserted (4.8.1998) by S.I. 1998/276, **reg. 12(1)(4)(a)(b)**
- F10** Words in s. 37(3)(a) inserted (4.8.1998) by S.I. 1998/276, **reg. 12(1)(4)(c)**
- F11** Words in s. 37(3) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 10** (with s. 1(4), **Sch. 39**)
- F12** Words in s. 37(3)(b) omitted (4.8.1998) by virtue of S.I. 1998/276, **reg. 12(1)(4)(d)**
- F13** Words in s. 37(4) substituted (4.8.1998) by S.I. 1998/276, **reg. 12(1)(5)(a)(b)**
- F14** Words in s. 37(6) substituted (4.8.1998) by S.I. 1998/276, **reg. 12(1)(6)**

#### Marginal Citations

- M2** 1962 c. 47.

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**F15F16 38 Restriction on licences for performances by children under 14.**

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**Textual Amendments**

**F15** S. 38 repealed (E.W.) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 90**, 139(4)

**F16** S. 38 repealed (S.) (1.8.2014) by [Children and Young People \(Scotland\) Act 2014 \(asp 8\)](#), **ss. 94**, 102(3); [S.S.I. 2014/131](#), art. 2(2)(3), Sch.

**39 Supplementary provisions as to licences under section 37.**

- (1) A licence under section 37 of this Act may be varied on the application of the person holding it by the local authority by whom it was granted or by any local authority in whose area <sup>F17</sup>any activity] to which it relates takes place.
- (2) The local authority by whom such a licence was granted and any local authority in whose area <sup>F17</sup>any activity] to which it relates takes place, may vary or revoke the licence if any condition subject to which it was granted is not observed or they are not satisfied as to the matters mentioned in subsection (4) of the said section 37, but shall, before doing so, give to the holder of the licence such notice (if any) of their intention as may be practicable in the circumstances.
- (3) Where a local authority grant such a licence authorising a child to <sup>F18</sup>do something] in the area of another local authority they shall send to that other authority such particulars as the Secretary of State may by regulations made by statutory instrument prescribe; and where a local authority vary or revoke such a licence which was granted by, or relates <sup>F18</sup>to an activity] in the area of, another local authority, they shall inform that other authority.
- (4) A local authority proposing to vary or revoke such a licence granted by another local authority shall, if practicable, consult that other authority.
- (5) The holder of such a licence shall keep such records as the Secretary of State may by regulations made by statutory instrument prescribe and shall on request produce them to an officer of the authority who granted the licence, at any time not later than six months after <sup>F19</sup>the occasion or last occasion] to which it relates.
- (6) Where a local authority refuse an application for a licence under section 37 of this Act or revoke or, otherwise than on the application of the holder, vary such a licence they shall state their grounds for doing so in writing to the applicant or, as the case may be, the holder of the licence; and the applicant or holder may appeal to a magistrates' court or, in Scotland, the sheriff, against the refusal, revocation or variation, and against any condition subject to which the licence is granted or any approval is given, not being a condition which the local authority are required to impose.
- (7) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F17** Words in s. 39(1)(2) substituted (4.8.1998) by [S.I. 1998/276](#), **reg. 14(1)(2)**

**F18** Words in s. 39(3) substituted (4.8.1998) by [S.I. 1998/276](#), **reg. 14(1)(3)(a)(b)**

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**F19** Words in s. 39(5) substituted (4.8.1998) by S.I. 1998/276, reg. 14(1)(4)

#### 40 Offences.

- (1) If any person—
- (a) causes or procures any child or, being his parent or guardian, allows him, to [<sup>F20</sup>do anything] in contravention of section 37 of this Act; or
  - (b) fails to observe any condition subject to which a licence under that section is granted, or any condition prescribed under subsection (3) of that section; or
  - (c) knowingly or recklessly makes any false statement in or in connection with an application for a licence under that section;
- he shall be liable on summary conviction to a fine not exceeding [<sup>F21</sup>level 3 on the standard scale]or imprisonment for a term not exceeding three months or both.
- (2) If any person fails to keep or produce any record which he is required to keep or produce under section 39 of this Act, he shall be liable on summary conviction to a fine not exceeding [<sup>F21</sup>level 3 on the standard scale]or imprisonment for a term not exceeding three months or both.
- (3) The court by which the holder or one of the holders of a licence under section 37 of this Act is convicted of an offence under this section may revoke the licence.
- (4) In any proceedings for an offence under this section alleged to have been committed by causing, procuring or allowing a child to take part in a performance without a licence under section 37 of this Act it shall be a defence to prove that the accused believed that the condition specified in paragraph (a) of subsection (3) of that section was satisfied and that he had reasonable grounds for that belief.

#### Textual Amendments

- F20** Words in s. 40(1)(a) substituted (4.8.1998) by S.I. 1998/276, reg. 15
- F21** Words substituted (E.W.S.) by virtue of (E.W.) *Criminal Justice Act 1982 (c. 48, SIF 39:1)*, ss. 38. 46 and (S.) *Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1)*, ss. 289F, 289G

#### 41 Licences for training persons between 12 and 16 for performances of a dangerous nature.

- (1) The power to grant licences under section 24 of the principal Act (which relates to the training of [<sup>F22</sup>children]to take part in performances of a dangerous nature) shall be exercisable by the local authority for the area or one of the areas in which the training is to take place instead of by a magistrates' court.
- (2) A licence under the said section 24 or under section 34 of the principal Scottish Act (which makes provision in Scotland similar to that made in England and Wales by the said section 24 as amended by subsection (1) of this section) may be revoked or varied by the authority who granted it if any of the conditions embodied therein are not complied with or if it appears to them that the person to whom the licence relates is no longer fit and willing to be trained or that proper provision is no longer being made to secure his health and kind treatment.
- (3) Where an authority refuse an application for such a licence or revoke or vary such a licence they shall state their grounds for doing so in writing to the applicant, or, as

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the case may be, to the holder of the licence, and the applicant or holder may appeal to a magistrates' court or, in Scotland, to the sheriff, against the refusal, revocation or variation.

#### Textual Amendments

**F22** Word substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), [Sch. 6 para. 7](#)

### 42 Licences for children and young persons performing abroad.

- (1) Section 25 of the principal Act (which prohibits [<sup>F23</sup>children] from going abroad for [<sup>F24</sup>certain purposes] except under the authority of a licence granted under that section) and section 26 of that Act (which imposes penalties for contraventions) shall have effect as if the words “singing, playing, performing or being exhibited” included taking part in any such performance as is mentioned in paragraph (c) or (d) of section 37(2) of this Act.
- (2) A licence under the said section 25 may be granted [<sup>F25</sup>in relation to a purpose referred to in subsection (1)(a) of that section] in respect of a person notwithstanding that he is under the age of fourteen if—
- (a) the engagement which he is to fulfil is for acting and the application for the licence is accompanied by a declaration that the part he is to act cannot be taken except by a person of about his age; or
  - (b) the engagement is for dancing in a ballet which does not form part of an entertainment of which anything other than ballet or opera also forms part and the application for the licence is accompanied by a declaration that the part he is to dance cannot be taken except by a child of about his age; or
  - (c) the engagement is for taking part in a performance the nature of which is wholly or mainly musical or which consists only of opera and ballet and the nature of his part in the performance is wholly or mainly musical.

#### Textual Amendments

**F23** Word substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), [Sch. 6 para. 8](#)

**F24** Words in s. 42(1) substituted (4.8.1998) by [S.I. 1998/276](#), [reg. 16\(1\)\(2\)](#)

**F25** Words in s. 42(2) inserted (4.8.1998) by [S.I. 1998/276](#), [reg. 16\(1\)\(3\)](#)

### 43 Extended powers of entry.

For subsection (2) of section 28 of the principal Act and for subsection (2) of section 36 of the principal Scottish Act there shall be substituted the following subsection:—

- “(2) Any authorised officer of the said authority or any constable may—
- (a) at any time enter any place used as a broadcasting studio or film studio or used for the recording of a performance with a view to its use in a broadcast or in a film intended for public exhibition and make inquiries therein as to any children taking part in performances to which section 37 of the Children and Young Persons Act 1963 applies;
  - (b) at any time during the currency of a licence granted under the said section 37 or under the provisions of this Part of this Act relating to training for dangerous performances enter any place (whether or not

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it is such a place as is mentioned in paragraph (a) of this subsection) where the person to whom the licence relates is authorised by the licence to take part in a performance or to be trained, and may make inquiries therein with respect to that person.”

**Modifications etc. (not altering text)**

- C6** The text of ss. 16(1), 17(1)(2), 25(1), 31, 32, 34, 35(3), 36, 38(2), 43, 57(1), 64(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Construction of Part II*

**44 Construction of Part II.**

- (1) This Part of this Act, in its application to England and Wales, and, as regards section 42, in its application elsewhere, shall be construed, and Part II of the principal Act shall have effect, as if this Part were included in that Part.
- (2) This Part of this Act, except section 42, shall, in its application to Scotland, be construed as if it were included in Part III of the principal Scottish Act and as if references to a local authority were references to an education authority; and the said Part III shall have effect as if this Part of this Act (except section 42) were included in it.



**Changes to legislation:**

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