



# Social Work (Scotland) Act 1968

## 1968 CHAPTER 49

An Act to make further provision for promoting social welfare in Scotland; to consolidate with amendments certain enactments relating to the care and protection of children; to amend the law relating to the supervision and care of persons put on probation or released from prison etc.; to restrict the prosecution of children for offences; to establish children's panels to provide children's hearings in the case of children requiring compulsory measures of care; and for purposes connected with the aforesaid matters. [26th July 1968]

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:—

### PART I

#### ADMINISTRATION

##### *Performance of their duties by local authorities*

#### **1 Local authorities for the administration of the Act**

- (1) It shall be the duty of a local authority to enforce and execute within their area the provisions of this Act with respect to which the duty is not expressly, or by necessary implication, imposed on some other authority.
- (2) The local authorities for the purposes of this Act shall be county councils and the councils of large burghs within the meaning of the Local Government (Scotland) Act 1947; and any small burgh within the meaning of that Act shall, for the purposes of this Act, be deemed to be included in the county in which it is situated.

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- (3) Any reference in this Act to a county or to the council thereof shall be construed, in relation to counties combined for the purposes mentioned in section 118(1) of the said Act of 1947, as a reference to the combined county or the joint county council.
- (4) The functions of local health authorities in respect of their areas under the following enactments—
- (a) the Nurseries and Child-Minders Regulation Act 1948;
  - (b) the Mental Health (Scotland) Act 1960 (other than their functions under section 7(1) thereof so far as relating to the ascertainment of mental deficiency); and
  - (c) section 27 of the National Health Service (Scotland) Act 1947 (care and after-care of persons who are or have been suffering from illness), other than functions relating to medical, dental or nursing care, or to health visiting,
- are hereby transferred to the local authorities of those areas.
- (5) On the date of the commencement of Part III of this Act the functions of education authorities in relation to the establishments which immediately before that date were approved schools and the children resident therein shall be transferred to the local authorities in whose areas the said children are ordinarily resident or, in the case of children who have no ordinary residence in Scotland, such local authorities as the Secretary of State may determine.
- (6) Before any two or more local authorities exercise their power to combine by virtue of section 119 of the Local Government (Scotland) Act 1947 for any of the purposes of this Act they shall consult with the Secretary of State.

## **2 The social work committee**

- (1) Every local authority shall establish a social work committee for the purposes of their functions under this Act.
- (2) Except as otherwise expressly provided, all matters relating to the performance of their functions under the following enactments—
- (a) this Act,
  - (b) Part IV of the Children and Young Persons (Scotland) Act 1937,
  - (c) sections 10 to 12 of the Matrimonial Proceedings (Children) Act 1958,
  - (d) Part I of the Children Act 1958.
  - (e) the Adoption Act 1958,
  - (f) section 101(1) of the Housing Act 1964, and
  - (g) the enactments mentioned in subsection (4) of the foregoing section,
- shall stand referred to the social work committee, and before exercising any of the said functions the authority shall, unless the matter is urgent, consider a report of the social work committee with respect thereto.
- (3) The social work committee, or any sub-committee thereof, may include persons specially qualified by reason of experience or training in matters relating to the functions of the committee, notwithstanding that they are not members of the local authority:

Provided that at least two-thirds of the members of the committee, and a majority of the members of any sub-committee thereof, shall be members of the authority.

- (4) Sections 39 and 40 of the Children Act 1948 (provisions relating to establishment of children's committee) shall cease to have effect.

### **3 The director of social work**

- (1) For the purposes of their functions under the enactments referred to in section 2(2) of this Act, a local authority shall, in accordance with the provisions of this section, appoint an officer, to be known as the director of social work.
- (2) The qualifications of the director of social work shall be such as the Secretary of State may prescribe.
- (3) Any vacancy in the appointment of director of social work shall be advertised by the local authority and, unless and until the Secretary of State prescribes qualifications under the last foregoing subsection, copies of all the applications received for the vacancy shall be forwarded by the local authority to the Secretary of State who shall compile a list of those applicants whom he considers qualified for the appointment, and if he considers none of the applicants to be qualified for the appointment he shall require the local authority to re-advertise the vacancy, and the local authority shall comply with the requirement with or without any change in the terms and conditions of service offered.
- (4) The Secretary of State shall send a copy of any such list as aforesaid to the local authority who submitted the applications from which the list was compiled, and the local authority shall appoint a person from among those named on that list, or, if they do not wish to appoint a person so nominated, a person nominated on a subsequent list compiled as aforesaid after re-advertisement of the vacancy.
- (5) The director of social work shall hold his office during the pleasure of the local authority, but he shall not be removed therefrom, or be required to resign as an alternative thereto, except by a resolution of that authority passed by not less than two-thirds of the members present at a meeting of the authority, notice of which specifies as an item of business the consideration of the removal from office of the director of social work or his being required to resign.
- (6) The director of social work of a local authority shall not, except with the consent of the Secretary of State, be employed by that authority in any other capacity.
- (7) A local authority shall secure the provision of adequate staff for assisting the director of social work in the performance of his functions.
- (8) The provisions as to remuneration and tenure of office contained in sections 82 and 92 of the Local Government (Scotland) Act 1947, so far as these provisions are not inconsistent with any of the foregoing provisions of this section, shall apply to directors of social work and their staffs.
- (9) Section 41 of the Children Act 1948 (children's officer) shall cease to have effect.

### **4 Provisions relating to performance of functions by local authorities**

Where a function is assigned to a local authority under this Act and a voluntary organisation or other person, including another local authority, is able to assist in the performance of that function, the local authority may make arrangements with such an organisation or other person for the provision of such assistance as aforesaid.

### *Central Authority*

## **5 Powers of Secretary of State**

- (1) Local authorities shall perform their functions under this Act under the general guidance of the Secretary of State.
- (2) The Secretary of State may make regulations in relation to the performance of the functions assigned to local authorities by this Act and in relation to the activities of voluntary organisations in so far as those activities are concerned with the like purposes.
- (3) Without prejudice to the generality of the foregoing subsection, regulations under this section may make provision for the boarding-out of persons by local authorities and voluntary organisations, whether under any enactment or otherwise, and may provide—
  - (a) for the recording by local authorities and voluntary organisations of information relating to persons with whom persons are boarded out as aforesaid, and to persons who are willing to have persons boarded out with them;
  - (b) for securing that persons shall not be boarded out in any household unless that household is for the time being approved by such local authority or voluntary organisation as may be prescribed by the regulations;
  - (c) in the case of a child, for securing that, where possible, the person with whom any child is to be boarded out is either of the same religious persuasion as the child or gives an undertaking that the child shall be brought up in that religious persuasion ;
  - (d) for securing that persons boarded out as aforesaid, and the places in which they are boarded out, shall be supervised and inspected by a local authority or voluntary organisation, as the case may be, and that those persons shall be removed from those places if their welfare appears to require it.

## **6 Supervision of establishments providing accommodation for persons and inspection of records etc.**

- (1) Any duly authorised officer of the Secretary of State may enter any of the following places for the purpose of making such examinations into the state and management of the place, and the condition and treatment of the persons in it, as he thinks necessary and for the purpose of inspecting any records or registers required to be kept therein by virtue of this Act, that is to say—
  - (a) any residential or other establishment provided by a local authority or a voluntary organisation or other person for the purposes of this Act;
  - (b) any place where there is being maintained—
    - (i) a foster child within the meaning of the Children Act 1958,
    - (ii) a protected child within the meaning of Part IV of the Adoption Act 1958 ;
  - (c) any place where any person is for the time being boarded out by a local authority or a voluntary organisation;
  - (d) any place registrable under the Nurseries and Child Minders Regulation Act 1948 or the home of any person so registrable.

- (2) Any such officer as aforesaid may at all reasonable times enter the offices of a local authority or of a voluntary organisation for the purpose of inspecting any records or registers relating to any establishment or place mentioned in the foregoing subsection or relating to any persons to whom the authority or organisation has made available advice, guidance or assistance in pursuance of this Act, or who may require such advice, guidance or assistance, and may carry out that inspection.
- (3) The power conferred by subsection (1) of this section may be exercised in respect of any place which an officer has reasonable cause to believe to be used as an establishment in respect of which the person carrying on the establishment is registrable under Part IV of this Act.
- (4) An officer who proposes to exercise any power of entry or inspection conferred by this section shall, if so required, produce a duly authenticated document showing his authority to exercise the power.
- (5) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds in the case of a first offence and fifty pounds in any other case.

## **7 Advisory Council on Social Work**

- (1) There shall be an Advisory Council on Social Work (hereafter in this section referred to as the Council) to be appointed by the Secretary of State, for the purpose of advising him on matters connected with the performance of his functions and those of local authorities in relation to social welfare, and with the activities of voluntary organisations connected with those functions.
- (2) The Council shall consist of such persons, to be appointed by the Secretary of State, as he may think fit, being persons specially qualified to deal with the aforesaid matters and other persons having experience which the Secretary of State considers valuable; and among the persons appointed under this subsection there shall be persons having experience in local government.
- (3) The Secretary of State shall appoint a chairman, and a secretary, of the Council.
- (4) It shall be the duty of the Council to advise the Secretary of State on any matter which he may refer to them, being such a matter as is mentioned in subsection (1) of this section, and they may also, of their own motion, make representations to the Secretary of State on any such matter as is mentioned in that subsection.
- (5) The Secretary of State may require the Council to appoint, and the Council, with the approval of the Secretary of State, shall have power to appoint committees to deal with any matter mentioned in the said subsection (1), and any committee appointed under this subsection shall include such persons as may be nominated by the Secretary of State.
- (6) The Secretary of State may make such payments to the members of the Council and to the members of any committees appointed under the provisions of this section, in respect of travelling, subsistence and other expenses as he may with the consent of the Treasury determine.
- (7) On the establishment of the Council, the Advisory Council on Child Care for Scotland and the After Care Council shall cease to exist and the records of those bodies shall pass to and vest in the Council.

- (8) Section 44 of the Children Act 1948 (Advisory Council on Child Care for Scotland) and section 18(1) to (3A) of the Prisons (Scotland) Act 1952 (After Care Council) shall cease to have effect.

*Research, training courses and financial and other assistance*

**8 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 in relation to social welfare, and with the activities of voluntary organisations connected with those functions.
- (2) Any local authority may conduct or assist other persons in conducting research into any matter connected with their functions in relation to social welfare.
- (3) The Secretary of State and any local authority may make financial assistance available in connection with any research which they may conduct or which they may assist other persons in conducting under the provisions of this section.

**9 Training courses and grants for training in social work**

- (1) The Secretary of State may provide courses of training for persons with a view to, or in the course of, their employment or the use of their services for the purposes of this Act.
- (2) The Secretary of State may make grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards any fees or expenses incurred by persons undergoing training for any of the purposes of this Act in circumstances such that it appears to the Secretary of State requisite that the grants should be made, and may defray or contribute towards the cost of maintenance of persons undergoing such training.
- (3) The Secretary of State may make grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred by any body of persons in providing training as aforesaid.

**10 Financial and other assistance to voluntary organisations etc., for social work**

- (1) The Secretary of State may make grants and loans of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred by voluntary organisations or other persons engaged in any activity connected with his functions or the functions of local authorities under this Act, in circumstances where it appears to the Secretary of State that such grants or loans should be made.
- (2) The conditions on which any grants are paid under the foregoing subsection may include conditions for securing the repayment in whole or in part of such grants.
- (3) A local authority may make contributions by way of grant or loan to any voluntary organisation the sole or primary object of which is to promote social welfare.
- (4) A local authority may also make available to such a voluntary organisation as aforesaid the use of premises belonging to the authority on such terms as may be agreed, and furniture, vehicles or equipment (whether by way of gift, loan or otherwise) and

the services of any staff employed by the authority in connection with the premises or other things belonging to the local authority which the voluntary organisation is permitted to use.

- (5) On the commencement of this Act, the power of the Secretary of State to give financial assistance and of local authorities to give financial and other assistance under sections 64 and 65 of the Health Services and Public Health Act 1968 shall cease in so far as any such assistance may be given under this section.

### *Acquisition of land*

## **11 Acquisition of land**

- (1) A local authority may be authorised by the Secretary of State to purchase compulsorily any land, whether situated in or outside their area for the purposes of any of their functions under this Act.
- (2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land under this section as if the last foregoing subsection had been in force immediately before the commencement of that Act.

## **PART II**

### **PROMOTION OF SOCIAL WELFARE BY LOCAL AUTHORITIES**

#### *General*

## **12 General social welfare services of local authorities**

- (1) It shall be the duty of every local authority to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for their area, and in that behalf to make arrangements and to provide or secure the provision of such facilities (including the provision or arranging for the provision of residential and other establishments) as they may consider suitable and adequate, and such assistance may be given to, or in respect of, the persons specified in the next following subsection in kind or in cash, subject to subsections (3) and (4) of this section.
- (2) The persons specified for the purposes of the foregoing subsection are—
- (a) a person, being a child under the age of eighteen, requiring assistance in kind, or in exceptional circumstances in cash, where such assistance appears to the local authority likely to diminish the need—
    - (i) to receive him into, or to keep him in, care under this Part of this Act, or
    - (ii) of his being referred to a children's hearing under Part III of this Act;
  - (b) a person in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash, where the giving of assistance in either form would avoid the local authority being caused greater expense in the giving of assistance in another form, or where probable aggravation of the person's need would cause greater expense to the local authority on a later occasion.

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- (3) Before giving assistance to, or in respect of, a person in cash under subsection (1) of this section a local authority shall have regard to his eligibility for receiving assistance from any other statutory body and, if he is so eligible, to the availability to him of that assistance in his time of need.
- (4) Assistance given in kind or in cash to, or in respect of, persons under this section may be given unconditionally or subject to such conditions as to the repayment of the assistance, or of its value, whether in whole or in part, as the local authority may consider reasonable having regard to the means of the person receiving the assistance and to the eligibility of the person for assistance from any other statutory body.
- (5) Nothing in the provisions of this section shall affect the performance by a local authority of their functions under any other enactment.

### **13 Power of local authorities to assist persons in need in disposal of produce of their work**

Where, by virtue of the last foregoing section, a local authority make arrangements or provide or secure the provision of facilities for the engagement of persons in need (whether under a contract of service or otherwise) in suitable work, that local authority may assist such persons in disposing of the produce of their work.

#### *Home help*

### **14 Home help and laundry facilities**

- (1) It shall be the duty of every local authority to provide on such scale as is adequate for the needs of their area, or to arrange for the provision on such a scale as is so adequate of, home help for households where such help is required owing to the presence, or the proposed presence, of a person in need or a person who is an expectant mother or lying-in, and every such authority shall have power to provide or arrange for the provision of laundry facilities for households for which home help is being, or can be, provided under this subsection.
- (2) A local authority may, with the approval of the Secretary of State, recover from persons availing themselves of help or facilities provided under this section such charges (if any) as the authority consider reasonable, having regard to the means of, and the cost of the help or facilities made available to, those persons.
- (3) It shall not be a requirement that any matter relating to the discharge of their functions under this section by a local authority shall stand referred to their social work committee.
- (4) On the coming into operation of the provisions of this and the last two foregoing sections, the provisions of sections 13, 44 and 45 of the Health Services and Public Health Act 1968 shall cease to have effect.



*Special provisions as to the care of children in need*

**15 Duty of local authority to provide for orphans, deserted children, etc.**

- (1) Without prejudice to the generality of the foregoing provisions of this Part of this Act, where it appears to a local authority with respect to a child in their area appearing to them to be under the age of seventeen—
  - (a) that he has neither parent nor guardian or has been and remains abandoned by his parent or guardian or is lost; or
  - (b) that his parent or guardian is, for the time being or permanently, prevented by reason of illness or mental disorder or bodily disease or infirmity or other incapacity or any other circumstances from providing for his proper accommodation, maintenance and upbringing ; and
  - (c) in either case, that the intervention of the local authority under this section is necessary in the interests of the welfare of the child,it shall be the duty of the local authority to receive the child into their care under this section.
- (2) Where a local authority have received a child into their care under this section, it shall, subject to the provisions of this Part of this Act, be their duty to keep the child in their care so long as the welfare of the child appears to them to require it and the child has not attained the age of eighteen.
- (3) If, at the time when a child is received into the care of a local authority under this section, the whereabouts of any parent or guardian of his are unknown, it shall be the duty of the local authority to take all reasonable steps to discover them ; and nothing in this section shall authorise a local authority to keep a child in their care under this section if any parent or guardian desires to take over the care of the child, and the local authority shall, in all cases where it appears to them consistent with the welfare of the child so to do, endeavour to secure that the care of the child is taken over either—
  - (a) by a parent or guardian of his, or
  - (b) by a relative or friend of his, being, where possible, a person of the same religious persuasion as the child or who gives an undertaking that the child will be brought up in that religious persuasion.
- (4) Where a local authority receive a child into their care under this section who is then ordinarily resident in the area of another local authority, that other local authority may within three months after the determination (whether by agreement between the authorities or under section 86 of this Act) of the ordinary residence of the child, or with the concurrence of the first-mentioned authority at any subsequent time, take over the care of the child; and a local authority shall not exercise their right to take over the care of a child under this subsection unless they are satisfied that the taking-over will not be detrimental to his welfare.
- (5) Where under the last foregoing subsection a local authority take over the care of a child from another local authority, that other authority shall where possible inform the parent of the child that the care of the child has been so taken over.

**16 Assumption by local authority of parental rights**

- (1) Subject to the provisions of this Part of this Act, a local authority may, with respect to any child in their care under the last foregoing section in whose case it appears to them—

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- (a) that his parents are dead and that he has no guardian; or
- (b) that a parent or guardian of his (hereafter in this Part of this Act referred to as the person on whose account the resolution was passed)—
  - (i) has abandoned him, or
  - (ii) suffers from some permanent disability rendering the said person incapable of caring for the child, or
  - (iii) suffers from a mental disorder which renders him unfit to have the care of the child, or
  - (iv) is of such habits or mode of life as to be unfit to have the care of the child, or
  - (v) has so persistently failed without reasonable cause to discharge the obligations of a parent or guardian as to be unfit to have the care of the child,

resolve that all the rights and powers which the deceased parent would have if he were still living, or, as the case may be, all the rights and powers of the person on whose account the resolution was passed, shall vest in the local authority.

- (2) In the case of a resolution passed by virtue of paragraph (b) of the last foregoing subsection, unless the person on whose account the resolution was passed has consented in writing to the passing of the resolution, the local authority, if the whereabouts of the said person are known to them, shall forthwith after the passing of the resolution serve on him notice in writing of the passing thereof; and if, not later than one month after such a notice is served on him, the person on whose account the resolution was passed serves a notice in writing on the local authority objecting to the resolution, the resolution shall, subject to the provisions of subsection (3) of this section, lapse on the expiration of fourteen days from the service of the notice of objection.

Every notice served by a local authority under this subsection shall inform the person on whom the notice is served of his right to object to the resolution and of the effect of any objection made by him.

- (3) Where a notice has been served on a local authority under the last foregoing subsection, the authority may, not later than fourteen days from the receipt by them of the notice, apply by way of summary application against the objection to the resolution to the sheriff having jurisdiction in the area of the authority, and in that event the resolution shall not lapse by reason of the service of the notice until the determination of the application, and the sheriff may, on the hearing of the application, order that the resolution shall not lapse by reason of the service of the notice:

Provided that the sheriff shall not so order unless satisfied that the child had been, and at the time when the resolution was passed remained, abandoned by the person who made the objection, or that that person is unfit to have the care of the child by reason of mental disorder within the meaning of the Mental Health (Scotland) Act 1960, or, in the case of a person furth of Scotland, would be deemed to be so unfit if that Act applied to him, or by reason of his habits or mode of life, or by reason of his persistent failure to discharge the obligations of a parent or guardian.

- (4) Where, after a child has been received into the care of a local authority under the last foregoing section, the whereabouts of any parent or guardian of his have remained unknown for not less than twelve months, the parent or guardian shall, for the purposes of the foregoing provisions of this section, be deemed to have abandoned the child.

- (5) Any notice under this section may be served by post, so however that a notice served by a local authority under subsection (2) of this section shall not be duly served by post unless it is sent in a registered letter or by recorded delivery service.

## **17 Effect of assumption by local authority of parental rights**

- (1) While a resolution passed by virtue of paragraph (a) of subsection (1) of section 16 of this Act is in force with respect to a child, all rights and powers which the deceased parents would have if they were still living shall, in respect of the child, be vested in the local authority in accordance with the resolution.
- (2) While a resolution passed by virtue of paragraph (b) of the said subsection (1) is in force with respect to a child, all rights and powers of the person on whose account the resolution was passed shall, in respect of the child, be vested in the local authority in accordance with the resolution, and subsection (3) of section 15 of this Act shall not, in respect of the child, apply in relation to the person on whose account the resolution was passed.
- (3) A resolution under section 16 of this Act shall not prevent the local authority from allowing, either for a fixed period or until the local authority otherwise determine, the care of the child to be taken over by, and the child to be under the control of, a parent, guardian, relative or friend in any case where it appears to the authority to be for the benefit of the child.
- (4) Where a resolution under section 16 of this Act is in force in respect of a child and the child has ceased to be in the care of the local authority by whom the resolution was passed, then (without prejudice to the provisions of section 15 of this Act if those provisions apply) the local authority by whom the resolution was passed shall have power to receive the child back into their care in any circumstances in which it appears to them that their intervention under this subsection is necessary in the interests of the welfare of the child.
- (5) Where a local authority receive a child into their care under the last foregoing subsection, the provisions of this Act, except subsection (4) of section 15 thereof, shall apply as if the child had been received into their care under the said section 15.
- (6) A resolution under the said section 16 shall not relieve any person from any liability to maintain, or contribute to the maintenance of, the child.
- (7) A resolution under the said section 16 shall not authorise a local authority to cause a child to be brought up in any religious persuasion other than that in which he would have been brought up but for the resolution.
- (8) Any person who—
- (a) knowingly assists or induces or persistently attempts to induce a child to whom this section applies to run away, or
  - (b) without lawful authority takes away such a child, or
  - (c) knowingly harbours or conceals such a child who has run away or who has been taken away or prevents him from returning,
- shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

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- (9) Where a local authority have, in accordance with subsection (3) of this section, allowed any person to take over the care of a child with respect to whom a resolution under the said section 16 is in force and have by notice in writing required that person to return the child at a time specified in the notice (which, if that person has been allowed to take over the care of the child for a fixed period, shall not be earlier than the end of that period) any person who harbours or conceals the child after that time or prevents him from returning as required by the notice shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

## **18 Duration and rescission of resolutions under section 16**

- (1) Subject to the provisions of this Part of this Act, a resolution under section 16 of this Act shall continue in force until the child with respect to whom it was passed attains the age of eighteen.
- (2) A resolution under the said section 16 may be rescinded by resolution of the local authority if it appears to them that the rescinding of the resolution will be for the benefit of the child.
- (3) On a summary application for the determining of a resolution being made—
- (a) in the case of a resolution passed by virtue of paragraph (a) of subsection (1) of the said section 16, by a person claiming to be a parent or guardian of the child;
  - (b) in the case of a resolution passed by virtue of paragraph (b) thereof, by the person on whose account the resolution was passed,
- the sheriff, having jurisdiction where the applicant resides, if satisfied that there was no ground for the making of the resolution or that the resolution should in the interests of the child be determined, may by order determine the resolution, and the resolution shall thereupon cease to have effect:
- Provided that, if the sheriff thinks fit, he may, in lieu of determining the resolution, order that, either for a fixed period or until he, or, if the order so provides, the local authority, otherwise direct, the local authority shall allow the care of the child to be taken over by, and the child to be under the control of, the applicant.
- (4) A court may entertain an application under section 4(2A) of the Guardianship of Infants Act 1925 to appoint a guardian of an infant notwithstanding that, by virtue of a resolution under section 16 of this Act, a local authority have parental rights with respect to him; but where on such an application the court appoints a guardian the resolution shall cease to have effect.

## **19 Amendment of Children Act 1958**

The Children Act 1958 shall have effect subject to the amendments set out in Schedule 1 to this Act.

## **20 Duty of local authority to further the best interests of a child in their care and to afford opportunity for his proper development**

- (1) Where a child is in the care of a local authority under any enactment, it shall be the duty of that authority to exercise their powers with respect to him so as to further his best

interests, and to afford him opportunity for the proper development of his character and abilities.

- (2) In providing for a child in their care as aforesaid, a local authority shall make such use of facilities and services available for children in the care of their own parents as appears to the local authority reasonable in his case.
- (3) Where a local authority allow the care of a child to be taken over under section 17(3) or 18(3) of this Act, their duties in respect of the child under this section shall not be affected by that take-over.

## **21 Mode of provision of accommodation and maintenance**

- (1) Subject to the provisions of this section, a local authority shall discharge their duty to provide accommodation and maintenance for a child in their care—
  - (a) by boarding him out on such terms as to payment by the authority and otherwise as the authority may, subject to the provisions of this Act and regulations thereunder, determine; or
  - (b) by maintaining the child in a residential establishment.
- (2) Nothing in the foregoing subsection shall be construed as preventing a local authority from making use, in the case of any child, of any such facilities and services as are referred to in subsection (2) of the last foregoing section, and for that purpose arranging for his accommodation and maintenance in any suitable manner not specified in the last foregoing subsection.
- (3) Arrangements may be made by a local authority under this section for boarding out a child in England or Wales or for maintaining him in any accommodation in England or Wales which a local authority in those countries is authorised to use for that purpose by virtue of section 13 of the Children Act 1948.

## **22 Removal of children in residential establishments**

Notwithstanding any agreement made in connection with the placing of a child in a residential establishment under this Part of this Act by a local authority, the authority may at any time, and shall if required so to do by the Secretary of State or the person responsible for the establishment, remove the child from the establishment.

## **23 Power of local authorities and voluntary organisations to arrange for emigration of children**

- (1) A local authority or a voluntary organisation may, with the consent of the Secretary of State, arrange or assist in arranging the emigration of any child in their care.
- (2) The Secretary of State shall not give his consent under this section unless he is satisfied that emigration would benefit the child, and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going, that the parent of the child has been consulted or that it is not practicable to consult him, and that the child consents:

Provided that where a child is too young to form or express a proper opinion on the matter, the Secretary of State may consent to his emigration notwithstanding that the child is unable to consent thereto in any case where the child is to emigrate in company

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with a parent or relative of his, or is to emigrate for the purpose of joining a parent, relative or friend.

**24 Financial assistance towards expenses of maintenance, education or training of persons over school age**

- (1) Without prejudice to the provisions of section 12 of this Act a local authority may make contributions to the cost of the accommodation and maintenance of any person—
- (a) who is over school age but has not attained the age of twenty-one; and
  - (b) who is, or has at any time after ceasing to be of school age been, in the care of a local authority,

in any place near the place where he may be employed, or seeking employment, or in receipt of education or training.

- (2) A local authority may make grants to persons who are over school age, but have not attained the age of twenty-one, and who at or after the time when they ceased to be of school age were in the care of a local authority, to enable them to meet expenses connected with their receiving suitable education or training.

- (3) Where a person—
- (a) is engaged in a course of education or training at the time when he attains the age of twenty-one; or
  - (b) having previously been engaged in a course of education or training which has been interrupted by any circumstances, resumes the course as soon as practicable,

then if a local authority are at the said time, or were at the time when the course was interrupted, as the case may be, making any contributions or grants in respect of him under any of the foregoing provisions of this section, their powers under those provisions shall continue with respect to him until the completion of the course.

**25 Power of local authority to guarantee indentures and other deeds of apprenticeship etc., of persons in their care**

While a person is in the care of a local authority by virtue of any enactment, the local authority may undertake any obligation by way of guarantee under any indentures or other deed of apprenticeship or articles of clerkship entered into by that person ; and where the local authority have undertaken any such obligation under any such deed or articles they may at any time (whether or not the person concerned is still in their care) undertake the like obligation under any such deed or articles supplemental thereto.

**26 After-care of children formerly in care of local authorities or voluntary organisations**

- (1) Where it comes to the knowledge of a local authority that there is in their area any child over school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer.—
- (a) in the care of a local authority, or
  - (b) 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, guide or assist him:

Provided that where in a case falling within paragraph (b) of this subsection the local authority are satisfied that the voluntary organisation have the necessary facilities, the local authority may make arrangements whereby, while the arrangements continue in force, he shall be advised, guided or assisted by the voluntary organisation instead of by the local authority.

- (2) Where a child over school age—
  - (a) ceases to be in the care of a local authority under section 15 of this Act and proposes to reside in the area of another local authority, or
  - (b) ceases to be in the care of a voluntary organisation,the authority or 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, guiding or assisting 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 the other local authority.

*Supervision and care of persons put on probation or released from prisons etc.*

## **27 Supervision and care of persons put on probation or released from prisons etc.**

- (1) It shall be a function of every local authority under this Part of this Act to provide a service for the following purposes, that is to say—
  - (a) making available to any court such social background reports and other reports relating to persons appearing before the court which the court may require for the disposal of a case;
  - (b) the supervision of, and the provision of advice, guidance and assistance for—
    - (i) persons in their area who are under supervision by order of a court made in the exercise of its criminal jurisdiction by virtue of any enactment, and
    - (ii) persons in their area who, following on release from prison or any other form of detention, are required to be under supervision under any enactment or by the terms of an order or licence of the Secretary of State or of a condition or requirement imposed in pursuance of any enactment.
- (2) For the purposes of the foregoing subsection every local authority shall, after consultation with the sheriffs having jurisdiction in their area, prepare a scheme (hereinafter referred to as a probation scheme) and submit it by such date, as he may require, to the Secretary of State for his approval.
- (3) A probation scheme shall make provision with regard to the following matters—
  - (a) the manner in which any report requested by the court from the local authority is to be prepared and submitted to the court;
  - (b) arrangements for the attendance of officers of the local authority at the court;
  - (c) arrangements for the co-operation of the local authorities with the courts, and such arrangements may include the appointment of one or more sheriffs having jurisdiction in their areas to the social work committee and to any sub-committee thereof;

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- (d) arrangements for the keeping of adequate records and statistics regarding the performance of functions under this section; and
  - (e) such other matters as the local authority considers relevant to the service to be provided.
- (4) The Secretary of State may approve a probation scheme with or without modifications.
- (5) A local authority may apply to the Secretary of State for the revision of a probation scheme and, if the Secretary of State so requires, shall prepare and submit to the Secretary of State for his approval a revised scheme or a modification of an existing scheme.
- (6) Any function required by any enactment to be performed by a probation officer shall, after the coming into operation of this Part of this Act, be performed by an officer of the appropriate local authority.
- (7) Section 11 of and Schedule 3 to the Criminal Justice (Scotland) Act 1949 (administrative provisions as to probation) shall cease to have effect.

*Ancillary*

**28 Burial or cremation of the dead**

- (1) A local authority may cause to be buried or cremated the body of any deceased person who immediately before his death was in the care of, or receiving assistance from, the authority:
- Provided that the authority shall not cause the body to be cremated where cremation is not in accordance with the practice of the person's religious persuasion.
- (2) An authority may recover from the estate of the deceased person or from any person who was liable to maintain the deceased person immediately before his death expenses incurred under subsection (1) of this section and not reimbursed under section 39 of the National Insurance Act 1965.

**29 Power of local authority to defray expenses of parent, etc., visiting persons or attending funerals**

- (1) A local authority may make payments to any parent, relative or other person connected with a person in their care, or receiving assistance from them, in respect of travelling, subsistence or other expenses incurred by the parent, relative or other person in visiting the person, if it appears to the authority that the parent, relative or other person would not otherwise be able to visit the person without undue hardship and that the circumstances warrant the making of the payments.
- (2) A local authority may make the like payments and in the like circumstances to any parent, relative or other person connected with a person who was in their care, or was receiving assistance from them, for the purpose of that parent, relative or other person attending the funeral of the person.



## **PART III**

### **CHILDREN IN NEED OF COMPULSORY MEASURES OF CARE**

#### **30 Definition of child and parent for Part III**

- (1) Except where otherwise expressly provided, a child for the purposes of this Part of this Act means—
  - (a) a child who has not attained the age of sixteen years;
  - (b) a child over the age of sixteen years who has not attained the age of eighteen years and in respect of whom a supervision requirement of a children's hearing is in force under this Part of this Act;
  - (c) a child whose case has been referred to a children's hearing in pursuance of Part V of this Act.
- (2) For the said purposes the expression " parent" includes a guardian.

#### **31 Restriction on prosecution of children for offences**

- (1) No child shall be prosecuted for any offence except on the instructions of the Lord Advocate, or at his instance; and no court, other than the High Court of Justiciary and the sheriff court, shall have jurisdiction over a child for an offence.
- (2) The case of any child liable to prosecution in respect of any act committed or omission made, but against whom proceedings have not been instituted before the commencement of this Act, shall be dealt with in accordance with the law as in force after the said commencement.
- (3) Part IV of the Children and Young Persons (Scotland) Act 1937 shall have effect subject to the amendments set out in Schedule 2 to this Act.

#### **32 Children in need of compulsory measures of care**

- (1) A child may be in need of compulsory measures of care within the meaning of this Part of this Act if any of the conditions mentioned in the next following subsection is satisfied with respect to him.
- (2) The conditions referred to in subsection (1) of this section are that—
  - (a) he is beyond the control of his parent; or
  - (b) through lack of parental care he is falling into bad associations or is exposed to moral danger; or
  - (c) the lack of care as aforesaid is likely to cause him unnecessary suffering or seriously to impair his health or development; or
  - (d) any of the offences mentioned in Schedule 1 to the Children and Young Persons (Scotland) Act 1937 has been committed in respect of him or in respect of a child who is a member of the same household; or
  - (e) the child, being a female, is a member of the same household as a female in respect of whom an offence which constitutes the crime of incest has been committed by a member of that household ; or
  - (f) he has failed to attend school regularly without reasonable excuse; or
  - (g) he has committed an offence ; or

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(h) he is a child whose case has been referred to a children's hearing in pursuance of Part V of this Act.

(3) For the purposes of this Part of this Act " care " includes protection, control, guidance and treatment.

### **33 Formation of children's panels**

(1) A panel (to be called " the children's panel") shall be formed for every local authority area for the purposes of this Part of this Act.

(2) Schedule 3 to this Act shall have effect with respect to the number, qualifications, appointment and tenure of office of members of a children's panel.

(3) A local authority shall cause to be published a list of the names and addresses of members of the children's panel for their area, and that list shall be open for public inspection at all reasonable times at the offices of the director of social work of the local authority, and at any place where an electors list for the locality is exhibited.

### **34 Children's hearings**

(1) Sittings of members of the children's panel, hereinafter referred to as children's hearings, shall be constituted from the panel in accordance with the provisions of this section to perform, in respect of children who may require compulsory measures of care, the functions assigned to those hearings by this Part of this Act.

(2) A children's hearing shall consist of a chairman and two other members and shall have both a man and a woman among the members.

(3) It shall be the duty of a local authority to provide suitable accommodation and facilities dissociated from criminal courts and police stations for children's hearings for their area, and such accommodation and faculties may be provided in the area of another local authority.

### **35 Provisions as to time, place, privacy and notification of children's hearings**

(1) Any children's hearing shall be conducted in private, and, subject to the provisions of any rules made under this section, no person other than a person whose presence is necessary for the proper consideration of the case which is being heard, or whose presence is permitted by the chairman, shall be present.

(2) The chairman shall take all reasonable steps to ensure that the number of persons present at a children's hearing at any one time is kept to a minimum.

(3) Nothing in the foregoing provisions of this section, or in any rules made thereunder, shall operate to prevent a member of the Council on Tribunals, or of the Scottish Committee of that Council, attending any children's hearing, or shall authorise the exclusion of bona fide representatives of a newspaper or news agency.

(4) The Secretary of State may make rules for the constituting and arranging of children's hearings and for regulating the procedure of those hearings.

(5) Without prejudice to the generality of the last foregoing subsection, rules under that subsection may make provision with respect to —

- (a) notification of the time and place of a children's hearing to the child and his parent;
- (b) the statement of the grounds for the referral of the case to a children's hearing and the rights of the child and his parent to dispute the said grounds ;
- (c) the right to appeal to the sheriff against a decision of a children's hearing and the notification of the procedure before him;
- (d) the right of the child and his parent to be represented at the children's hearing;
- (e) the entitlement of the child and his parent to the refund of such expenses as may be prescribed in connection with the children's hearing and any proceedings arising therefrom;
- (f) persons whose presence shall be permitted at a children's hearing;
- (g) the continuation of a children's hearing for further investigation of a case before that hearing and the number and duration of such continuations.

### **36 The reporter and deputies**

- (1) For the purpose of arranging children's hearings and for the performance of such other functions in relation to the children's panel or to children's hearings as may be assigned to him by this Part of this Act, a local authority shall, in accordance with the provisions of this section, appoint an officer, whole-time or part-time, to be known as the reporter, and such other officers as deputies of the reporter as may be required.
- (2) Any vacancy in the appointment of reporter shall be advertised by the local authority, and copies of all the applications for the vacancy shall be forwarded by them to the Secretary of State who shall compile a list of those applicants whom he considers suitable for the appointment and if he considers none of the applicants to be suitable for appointment, he shall require the local authority to re-advertise the vacancy, and the local authority shall comply with the requirement with or without any change in the terms and conditions of service offered.
- (3) The Secretary of State shall send any such list as aforesaid to the local authority who submitted the applications from which the list was compiled, and the local authority shall appoint a person from among those named on that list, or, if they do not wish to appoint a person so nominated, a person nominated on a subsequent list compiled as aforesaid after re-advertisement of the vacancy.
- (4) A reporter may not be removed from office by a local authority or be required to resign except with the consent of the Secretary of State.
- (5) A reporter of a local authority shall not, except with the consent of the Secretary of State, be employed by that or any other local authority in any capacity other than that of a reporter.
- (6) A local authority shall secure the provision of adequate staff for assisting the reporter in the performance of his functions.
- (7) The provisions as to remuneration and tenure of office contained in sections 82 and 92 of the Local Government (Scotland) Act 1947, so far as these provisions are not inconsistent with any of the foregoing provisions of this section, shall apply to reporters and their staffs.
- (8) The Secretary of State may make rules in relation to the duties of the reporter.

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**37 Reports of cases of children who may require compulsory measures of care and the interim detention of such children in places of safety**

- (1) Where any person has reasonable cause to believe that a child may be in need of compulsory measures of care he may give to the reporter such information about the child as he may have been able to discover.
- (2) A constable or any person authorised by any court or by any justice of the peace may take to a place of safety any child in respect of whom any of the offences mentioned in Schedule 1 to the Children and Young Persons (Scotland) Act 1937 or any offence under section 21(1) of that Act has been or is believed to have been committed, and any child so taken to a place of safety or any child who has taken refuge in a place of safety may be detained there until arrangements can be made for him to be brought before a children's hearing under the following provisions of this Part of this Act, and, where a child is so detained, the constable or the person authorised as aforesaid or the occupier of the place of safety shall forthwith inform the reporter of the case.
- (3) A child shall not continue to be detained under the last foregoing subsection—
  - (a) where the reporter considers the child does not require compulsory measures of care, or
  - (b) after the day on which a children's hearing first sit to consider his case in pursuance of the next following subsection, or
  - (c) for a period exceeding seven days.
- (4) Where a child has been detained in a place of safety under subsection (2) of this section or under section 40(3) or 47(1) of the said Act of 1937, and the reporter considers that the child may be in need of compulsory measures of care, he shall, wherever practicable, arrange a children's hearing to sit not later than in the course of the first lawful day after the commencement of the child's detention to consider the case under this Part of this Act, and, if that hearing are unable to dispose of the case and are satisfied that his further detention is necessary in his own interest, or have reason to believe that he will run away during the investigation of his case, they may issue a warrant requiring the child to be detained in any place of safety for such a period not exceeding twenty-one days as may be necessary.
- (5) On cause shown a warrant authorising detention under the last foregoing subsection may be renewed, on one occasion only, for the period mentioned in that subsection on the application of the reporter.
- (6) In this section any reference to a justice of the peace includes a reference to a sheriff and to a magistrate.

**38 Initial investigation of cases by reporter**

- (1) Where a reporter receives information from any source of a case which may require a children's hearing to be arranged he shall, after making such initial investigation as he may think necessary, proceed with the case in accordance with the provisions of the next following section.
- (2) Paragraph (b) of section 17(1) of the Police (Scotland) Act 1967 shall, in relation to a child to whom this Part of this Act applies, have effect as if that paragraph imposed a requirement on constables of a police force to make the reports required thereby to the appropriate reporter in addition to the appropriate prosecutor.

### **39 Action on initial investigation by reporter**

- (1) Where the reporter decides that no further action on the case is required, he shall, where he considers this to be the proper course, so inform the child and his parent and the person who brought the case to his notice, or any of those persons.
- (2) Where the reporter considers it to be the proper course, he shall refer the case to the local authority with a view to their making arrangements for the advice, guidance and assistance of the child and his family in accordance with Part II of this Act.
- (3) Where it appears to the reporter that the child is in need of compulsory measures of care, he shall arrange a children's hearing to whom the case shall stand referred for consideration and determination.
- (4) Where the reporter has arranged a children's hearing in pursuance of the last foregoing subsection, he shall request from the local authority a report on the child and his social background and it shall be the duty of the authority to supply the report which may contain information from any such person as the reporter or the local authority may think fit.
- (5) Where the reporter has decided that no further action on the case is required, or has taken action in pursuance of subsection (2) of this section, he shall not thereafter take action under subsection (3) of this section in relation to the same facts.

### **40 Attendance of child at children's hearing**

- (1) Where a child has been notified by virtue of section 35 of this Act that his case has been referred to a children's hearing, he shall be under an obligation to attend that hearing in accordance with the notification.
- (2) Without prejudice to the provisions of section 42(1) of this Act, where a children's hearing are satisfied in a case concerned with an offence mentioned in Schedule 1 to the Children and Young Persons (Scotland) Act 1937 that the attendance of a child is not necessary for the just hearing of that case, or in any case where they are satisfied that it would be detrimental to the interest of the child to be present at the hearing of his case, the case, in whole or in part, may be considered in the absence of the child.
- (3) The reporter shall be responsible for securing the attendance of a child at the hearing of his case before a children's hearing and at any subsequent hearing to which the case is continued.
- (4) For the purpose of the last foregoing subsection, or where a child fails to attend at any hearing of his case, a children's hearing may, at the instance of the reporter on cause shown, or, as the case may be, of their own motion, issue a warrant for the apprehension of the child if satisfied of the necessity for such a course, and any warrant so issued shall be authority for bringing him before a children's hearing and for his detention in a place of safety.
- (5) A child shall not continue to be detained under the last foregoing subsection—
  - (a) after the day on which a children's hearing first sit to consider his case in pursuance of the next following subsection, or
  - (b) for a period exceeding seven days.
- (6) Where a child is apprehended in pursuance of subsection (4) of this section, and he cannot immediately be brought before a children's hearing, the reporter shall, wherever

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practicable, arrange a children's hearing to sit not later than in the course of the first lawful day after the apprehension of the child.

- (7) Where a children's hearing before whom a child is brought are unable to dispose of his case and have reason to believe that the child may not attend at any hearing of his case, or at any proceedings arising from the case, or may fail to comply with a requirement under section 43(4) of this Act, they may issue a warrant requiring the child to be detained in any place of safety for such a period not exceeding twenty-one days as may be necessary.
- (8) On cause shown a warrant authorising detention under the last foregoing subsection for securing the attendance of a child at the hearing of his case, or at any proceedings arising from his case, may be renewed, on one occasion only, for the period mentioned in that subsection on the application of the reporter.
- (9) A warrant of apprehension issued under this Part of this Act may be executed in like manner as a warrant of apprehension of an accused person issued by a court of summary jurisdiction, and any enactment relating to the execution of a warrant of apprehension issued by a court of summary jurisdiction shall, with any necessary modifications, apply in relation to the execution of a warrant of apprehension issued under this Part of this Act as it applies to a warrant of apprehension issued by a court of summary jurisdiction.

#### **41 Attendance of parent at children's hearing**

- (1) A parent of a child shall have a right to attend at all stages of a children's hearing who are considering the case of his child.
- (2) When a child's case is being considered by a children's hearing his parent shall attend at all stages of the hearing unless the children's hearing are satisfied that it would be unreasonable to require his attendance or that his attendance would be unnecessary to the consideration of the case.
- (3) Any person who fails to comply with the provisions of the foregoing subsection shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding fifty pounds.

#### **42 Conduct of children's hearing and application to sheriff for findings**

- (1) Subject to the provisions of subsections (7) and (8) of this section, at the commencement of a children's hearing, and before proceeding to the consideration of the case, it shall be the duty of the chairman to explain to the child and his parent the grounds stated by the reporter for the referral of the case for the purpose of ascertaining whether these grounds are accepted in whole or in part by the child and his parent.
- (2) Thereafter—
  - (a) where the child and his parent accept the grounds stated by the reporter for the referral the hearing shall proceed;
  - (b) where the child and his parent accept those grounds in part and the children's hearing consider it proper so to do the hearing may proceed in respect of the grounds so accepted; and
  - (c) in any other case, unless they decide to discharge the referral, the children's hearing shall direct the reporter to make application to the sheriff for a finding as to whether such grounds for the referral, as are not accepted by the child

or his parent, are established having regard to the provisions of section 32 of this Act.

- (3) It shall be the duty of the chairman of a children's hearing who have made a direction under the last foregoing subsection to explain to the child and his parent the purpose for which the application to the sheriff is being made, and to inform the child that he is under an obligation to attend the hearing of the application, and where a child fails to attend at the hearing of the application the sheriff may issue a warrant for the apprehension of the child; and any warrant so issued shall be authority for bringing him before the sheriff and for his detention in a place of safety until the sheriff can hear the application, but a child shall not be detained under this subsection for a period exceeding seven days or after the sheriff has disposed of the application.
- (4) An application under subsection (2) of this section shall be heard by the sheriff in chambers within twenty-eight days of the lodging of the application and, without prejudice to their right to legal representation, a child or his parent may be represented at any diet fixed by the sheriff for the hearing of the application.
- (5) Where a sheriff decides that none of the grounds in respect of which the application has been made has been established for the referral of a case to a children's hearing, he shall dismiss the application and discharge the referral in respect of those grounds.
- (6) Where the sheriff is satisfied on the evidence before him that any of the grounds in respect of which the application has been made has been established he shall remit the case to the reporter to make arrangements for a children's hearing for consideration and determination of the case, and where a ground for the referral of the case is the condition referred to in section 32(2)(g) of this Act, the sheriff in hearing the application shall apply to the evidence relating to that ground the standard of proof required in criminal procedure.
- (7) Where a children's hearing are satisfied that the child for any reason is not capable of understanding the explanation of the grounds of referral required by subsection (1) of this section, or in the course of, or at the conclusion of that explanation, it appears not to be understood by the child, the hearing shall, unless they decide to discharge the referral, direct the reporter to make application to the sheriff for a finding as to whether any of the grounds for the referral have been established, and the provisions of this section relating to an application to the sheriff under subsection (2)(c) thereof shall apply as they apply to an application under that subsection.
- (8) The acceptance by a parent of the grounds of referral shall not be a requirement to proceeding with a case under this section where the parent is not present.

#### **43 Discharge of referral and power of children's hearing to order further investigation after consideration of the facts**

- (1) When a children's hearing have considered the grounds for the referral of a case, accepted or established under the last foregoing section, the report obtained under section 39(4) of this Act and such other relevant information as may be available to them, they shall proceed in accordance with the subsequent provisions of this section to consider on what course they should decide in the best interests of the child.
- (2) Where a children's hearing decide that no further action is required they shall discharge the referral.

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- (3) Where a children's hearing consider that further investigation in relation to a child and his history is necessary to complete their consideration of his case they may continue the case to a subsequent hearing.
- (4) For the purpose of such an investigation as aforesaid, a children's hearing may require a child to attend or reside at any clinic, hospital or establishment during a period not exceeding twenty-one days.
- (5) Where a child fails to fulfil a requirement made in pursuance of the last foregoing subsection it shall be the duty of the reporter to arrange a children's hearing to consider the issue of a warrant for his detention under section 40 of this Act.

#### **44 Disposal of case by children's hearing other than by discharge of referral**

- (1) Subject to the provisions of this Part of this Act a children's hearing, where, after the consideration of his case, they decide that a child is in need of compulsory measures of care, may make a requirement, in this Act referred to as a supervision requirement, requiring him—
  - (a) to submit to supervision in accordance with such conditions as they may impose ; or
  - (b) to reside in a residential establishment named in the requirement and be subject to such conditions as they may impose;
 and a condition imposed by virtue of head (a) of this subsection may be a condition as to the place where the child is to reside, being a place other than a residential establishment, and the place may be a place in England or Wales where arrangements have been made in that behalf.
- (2) In making a supervision requirement requiring a child to reside in a residential establishment a children's hearing shall have regard to the religious persuasion of the child.
- (3) Without prejudice to the provisions of this Part of this Act relating to the review of supervision requirements, a children's hearing may, where they are satisfied that such a course is proper, postpone the operation of a supervision requirement, but otherwise a supervision requirement shall have effect as from the date it is made.
- (4) Where it appears to a children's hearing that the functions of the education authority under section 63 of the Education (Scotland) Act 1962 (ascertainment of children suffering from disability) may require to be exercised, they shall, in addition to any other course which they may take under this section, send a report to that effect to the education authority concerned.
- (5) It shall be the duty of the local authority to give effect to a supervision requirement made by a children's hearing for their area, and a child who is subject to such a supervision requirement shall, for the purposes of sections 16 to 18, 20, 24 to 26, 28 and 29 of this Act, be in their care:

Provided that where the performance of a function under any of the said sections in relation to the child requires, or would be facilitated by, the variation or discharge of the supervision requirement, the local authority shall recommend a review of the requirement under this Part of this Act.



- (6) In any case of urgent necessity in the interests of the child, or of the other children in a place, a director of social work may direct that a child who is required to reside in that place under this section be transferred to another place.
- (7) Any child transferred under the last foregoing subsection shall have his case reviewed by a children's hearing within seven days of his transfer, in accordance with the following provisions of this Act.
- (8) A supervision requirement shall be in such form as the Secretary of State may prescribe.

**45 Rules as respects transmission of information and conveyance of children to residential establishments etc.**

The Secretary of State may make rules providing for the transmission of information regarding children who are the subject of supervision requirements to the persons who are to be in charge of them, for the temporary accommodation, where necessary, of such children, and for the conveyance of such children to residential establishments and to other places where they may be required to reside.

**46 Children to whom Part IV of the Mental Health (Scotland) Act 1960 may apply**

- (1) Where a children's hearing are of the opinion, after considering the case of any child, that an application for admission to hospital or a guardianship application under Part IV of the Mental Health (Scotland) Act 1960 should be made to the sheriff in respect of the child, they shall make a report to that effect to the mental health officer concerned.
- (2) Nothing in the provisions of the foregoing subsection shall affect the saving for arrangements for the voluntary treatment of mental disorder contained in section 23(3) of the said Act of 1960.

**47 Duration of supervision requirements and their variation**

- (1) No child shall continue to be subject to a supervision requirement for any time longer than is necessary in his interest; and where they consider that such a requirement in respect of a child should cease to have effect or should be varied, the local authority shall refer his case to their reporter for review of that requirement by a children's hearing and, if the hearing think proper, they may terminate the requirement, or continue or vary the requirement, and in the last event they may make any such supervision requirement as may be made under section 44 of this Act.
- (2) A supervision requirement shall cease to have effect in respect of a child when he attains the age of eighteen years and accordingly, within a period of three months ending on the day on which such a requirement will cease to have effect under this subsection, the local authority concerned shall refer the case to the reporter so that a children's hearing may advise whether the child still requires supervision or guidance, and in the event of the hearing so advising, the local authority shall provide such supervision or guidance as he is prepared to accept.
- (3) Unless the context otherwise requires, any reference in this section and in the following provisions of this Act to a supervision requirement shall be construed as a reference to a supervision requirement which is for the time being in force in respect of a child.

#### **48 Review of requirement of children's hearing**

- (1) A supervision requirement shall be subject to review by a children's hearing in accordance with the following provisions of this section.
- (2) A supervision requirement shall be reviewed by a children's hearing where a local authority so recommends.
- (3) No supervision requirement shall remain in force without review for a period extending beyond one year, and where a supervision requirement is not reviewed within the period of one year from the making or continuing of the requirement it shall cease to have effect at the expiration of that period.
- (4) At any time after the expiration of any of the following periods, that is to say—
  - (a) a period of three months from the date of the making of a supervision requirement; or
  - (b) a period of three months from the date of a review of a supervision requirement where such a review varies a previous requirement; or
  - (c) a period of six months from the date of a review of a supervision requirement which is continued by that review,a child or his parent may require a review of the requirement.
- (5) It shall be the duty of the reporter to ensure that any review required by this section is duly made and to make any necessary arrangements arising therefrom.
- (6) Section 44 of this Act shall apply in relation to the disposal of a case by a children's hearing under this section as it applies to the disposal of a case under that section.

#### **49 Appeal against decision of a children's hearing**

- (1) A child or his parent or both may, within a period of three weeks beginning with the date of any decision of a children's hearing, appeal to the sheriff in chambers against that decision, and the child or his parent or both shall be heard by the sheriff as to the reasons for the appeal.
- (2) In any such appeal it shall be the duty of the reporter to ensure that all reports and statements available to the hearing along with the reports of their proceedings and the reasons for their decision are lodged with the sheriff clerk.
- (3) The sheriff may examine the reporter and the authors or compilers of any reports or statements, and may call for any further report which he considers may assist him in deciding the appeal.
- (4) Where the sheriff decides that an appeal under this section has failed, he shall confirm the decision of the children's hearing.
- (5) Where the sheriff is satisfied that the decision of the children's hearing is not justified in all the circumstances of the case he shall allow the appeal, and—
  - (a) where the appeal is against the issue of a warrant for detention he shall recall the warrant, and
  - (b) in any other case, he may, as he thinks fit, remit the case with the reasons for his decision to the children's hearing for reconsideration of their decision or discharge the child from any further hearing or other proceedings in relation to the grounds for the referral of the case.

- (6) Where the sheriff is satisfied that an appeal under this section against the decision of a children's hearing at a review is frivolous, he may order that no appeal against a decision to continue the supervision requirement, which was the subject of that appeal, made on a subsequent review shall lie until the expiration of a period of twelve months beginning with the date of the order.
- (7) An appeal under this section in respect of the issue of a warrant by a children's hearing shall be disposed of within three days of the lodging of the appeal, and failing such disposal the warrant shall forthwith cease to have effect.
- (8) Where a child or his parent appeals under this section against a decision of a children's hearing in relation to a supervision requirement, the child or his parent may make application to a children's hearing for the suspension of the requirement appealed against, and it shall be the duty of the reporter forthwith to arrange a children's hearing to consider the application, and thereafter the hearing may grant or refuse the application.

## **50 Appeal to Court of Session**

- (1) Subject to the provisions of this section, an appeal shall lie to the Court of Session, by way of stated case on a point of law or in respect of any irregularity in the conduct of the case, at the instance of a child or his parent or both or of a reporter acting on behalf of a children's hearing, from any decision of the sheriff under this Part of this Act, and no other or further appeal shall be competent.
- (2) An application to the sheriff to state a case for the purpose of the foregoing subsection shall be made within a period of twenty-eight days beginning with the date of his decision.
- (3) On deciding the appeal the Court of Session shall remit the case to the sheriff for disposal in accordance with such directions as the Court may give.
- (4) No appeal shall lie under this section in respect of a decision of a children's hearing imposing a supervision requirement where the sole ground of the objection to that requirement is that the treatment prescribed thereby is inappropriate for the child.

## **51 Reconsideration by hearing after appeal, and subsequent appeal**

- (1) Where the sheriff, by virtue of either of the last two foregoing sections, has remitted a case to a children's hearing for reconsideration of their decision the reporter shall arrange a children's hearing for that purpose.
- (2) A child or his parent may, within a period of seven days beginning with the date of the decision of a children's hearing on a case remitted as aforesaid, appeal against the decision, and the provisions of subsections (2) to (8) of section 49 of this Act shall apply to such an appeal as they apply to an appeal under subsection (1) of the said section.

## **52 Power of Secretary of State to terminate a supervision requirement**

Where, having regard to all the circumstances of a case and the interests of a child, the Secretary of State is satisfied that a supervision requirement in force in respect of the child should be terminated, he may by order terminate the requirement.

**53      Legal aid in proceedings before the sheriff and any appeals to the Court of Session**

In any proceedings before the sheriff or in any subsequent appeal to the Court of Session where such proceedings are in respect of a decision of a children's hearing or of an application made in pursuance of section 42 of this Act, legal aid shall be available to a child or his parent in accordance with the provisions of the Legal Aid (Scotland) Act 1967, and for the purposes of this section that Act shall have effect subject to the amendments set out in Schedule 4 to this Act.

**54      Transfer of case to another children's hearing**

- (1) Where a children's hearing are satisfied, in a case being heard before them, that the case could be better considered by a children's hearing for the area of another local authority, they may at any time during the course of the hearing request the reporter to arrange with the reporter of the other local authority, should he so agree, for a children's hearing to dispose of the case.
- (2) Where a case has been transferred in pursuance of the last foregoing subsection, the grounds of referral accepted or established for the case shall not require to be further accepted or established for the purpose of the children's hearing to which the case has been transferred.

**55      Presumption and determination of age**

Where a person is brought before a children's hearing they shall make inquiry as to his age, and, if it appears to the hearing that the person is a child, they shall proceed with the case, and no decision or requirement of the hearing shall be invalidated by any subsequent proof that the age of that person has not been correctly stated to the hearing, and the age presumed or declared by the hearing to be the age of the person so brought before them shall, for the purposes of this Part of this Act, be deemed to be the true age of that person, and, where it appears to the hearing that the person so brought before them has attained the age of sixteen years, that person shall, for the purposes of this Part of this Act, be deemed not to be a child except as the Act otherwise provides.

**56      Reference and remit of children's cases by courts to children's hearings**

- (1) Where a child who is not subject to a supervision requirement is charged with an offence and pleads guilty to, or is found guilty of, that offence the court—
  - (a) instead of making an order on that plea or finding, may remit the case to the reporter of the local authority to arrange for the disposal of the case by a children's hearing; or
  - (b) on that plea or finding may request the reporter of the local authority to arrange a children's hearing for the purposes of obtaining their advice as to the treatment of the child.
- (2) Where a court has acted in pursuance of paragraph (b) of the foregoing subsection, the court, after consideration of the advice received from the children's hearing may, as it thinks proper, itself dispose of the case or remit the case as aforesaid.
- (3) Where a child who is subject to a supervision requirement is charged with an offence and pleads guilty to, or is found guilty of, that offence the court shall request the reporter of the local authority to arrange a children's hearing for the purpose of

obtaining their advice as to the treatment of the child, and on consideration of that advice may, as it thinks proper, itself dispose of the case or remit the case as aforesaid.

- (4) Where a court has remitted a case to the reporter under this or the next following section, the jurisdiction of the court in respect of the child or person shall cease, and his case shall stand referred to a children's hearing.
- (5) Where a court has remitted a case of a child or person as aforesaid, a certificate signed by the clerk of the court stating that the child or person has pleaded guilty to, or has been found guilty of, the offence to which the remit relates shall be conclusive evidence for the purpose of the remit that that offence has been committed by the child or person.
- (6) Nothing in the provisions of this or the next following section shall apply to a case in respect of an offence the sentence for which is fixed by law.

## **57 Reference and remit of cases of certain young persons by courts to children's hearings**

- (1) Where a person who is not subject to a supervision requirement but is a person over the age of sixteen, and is not within six months of attaining the age of eighteen, is charged summarily with an offence and pleads guilty to, or has been found guilty of, that offence the court on that plea or finding may request the reporter of the local authority to arrange a children's hearing for the purpose of obtaining their advice as to the treatment of the person, and on consideration of that advice, the court may, as it thinks proper, itself dispose of the case or, where the hearing have so advised, remit the case to the reporter of the local authority for the disposal of the case by a children's hearing.
- (2) Where a court has remitted a case under the foregoing subsection the provisions of this Part of this Act shall apply to that person as if he were a child.

## **58 Prohibition of publication of proceedings**

- (1) Subject to the provisions of this section, no report of any proceedings in any children's hearing, or of any proceedings before the sheriff under section 42 of this Act, or of any appeal under this Part of this Act, which is made in a newspaper or a sound or television broadcast shall—
  - (a) reveal the name, address or school; or
  - (b) include any particulars calculated to lead to the identification,of any child in any way concerned in a hearing and no picture shall be published in any newspaper or television broadcast as being or including a picture of a child concerned as aforesaid.
- (2) Any person guilty of any offence against this section shall on summary conviction be liable to a fine not exceeding two hundred and fifty pounds in respect of each offence.
- (3) The Secretary of State may in any case, if satisfied that it is in the interests of justice to do so, by order dispense with the requirements of subsection (1) of this section to such extent as may be specified in the order.
- (4) This section shall extend to England and Wales.

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

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## PART IV

### RESIDENTIAL AND OTHER ESTABLISHMENTS

#### *Provision of residential and other establishments*

#### **59 Provision of residential and other establishments by local authorities, and maximum period for repayment of sums borrowed for such provision**

- (1) It shall be the duty of a local authority to provide and maintain such residential and other establishments as may be required for their functions under this Act, or arrange for the provision of such establishments.
- (2) For the purpose of discharging their duty under the foregoing subsection a local authority may—
  - (a) themselves provide such establishments as aforesaid; or
  - (b) join with another local authority in providing those establishments; or
  - (c) secure the provision of such establishments by voluntary organisations or other persons including other local authorities.
- (3) The maximum period for the repayment of sums borrowed by a local authority for the purposes of this section shall be such period not exceeding sixty years as may be sanctioned by the Secretary of State; and accordingly in Schedule 6 to the Local Government (Scotland) Act 1947, at the end, there shall be added the following entry, that is to say—

|   |  |
|---|--|
| “Section 59 of the Social Work (Scotland) Act 1968. | Such period not exceeding sixty years as may be sanctioned by the Secretary of State.” |
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#### **60 Control of residential and other establishments**

- (1) The Secretary of State may make regulations as to the conduct of residential and other establishments and for securing the welfare of persons resident or accommodated in them, and, without prejudice to the generality of those regulations, they may provide—
  - (a) for the construction of, and the accommodation provided in, those establishments, and their equipment, maintenance and management;
  - (b) for the classification, treatment and control of persons resident therein or attending thereat;
  - (c) for the inspection of those establishments and the visiting of persons from time to time by visitors appointed in accordance with the regulations ;
  - (d) for notice to be given to the Secretary of State or the local authority with which the person carrying on any such establishment is registered under any enactment of any change of the person in charge of the establishment ;
  - (e) for requirements, in the case of children, as to the facilities which are to be given for them to receive a religious upbringing appropriate to the persuasion to which they belong;
  - (f) for making available in any of those establishments any service authorised by the National Health Service (Scotland) Act 1947;

and may contain different provisions for different classes of establishments and different categories of persons.

- (2) In the foregoing subsection, the expression " treatment" includes training, education and occupation, but does not include medical treatment.
- (3) Where any regulation made in pursuance of this section provides that this subsection shall have effect in relation to the regulation, any person who contravenes or fails to comply with the regulation or any requirement or direction under it shall be liable on summary conviction to a fine not exceeding fifty pounds.

#### *Registration of certain residential and other establishments*

### **61 Restriction on carrying on of establishments**

- (1) The establishments to which the following provisions of this Part of this Act apply are any residential or other establishment the sole or main object of which is to accommodate persons for the purposes of this Act, whether for reward or not, not being premises controlled or managed by a Government department or by a local authority, or required to be registered, or premises in respect of which a person is required to be registered, with a Government department or a local authority under any other enactment.
- (2) An establishment shall not be carried on by any person unless he is for the time being registered in respect of it in a register kept for the purposes of this section by a local authority or, as the case may be, by the Secretary of State.
- (3) Any person who carries on an establishment in contravention of the provisions of subsection (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds and in the case of a second or subsequent conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

### **62 Registration**

- (1) Subject to the next following section, an application for registration in respect of an establishment under this section shall be made by the person intending to carry on the establishment to the local authority in the area of which the establishment is situated.
- (2) The application shall be in such form and shall include information about such matters as may be prescribed by the Secretary of State, and the Secretary of State may prescribe different requirements for the applications for different classes of establishments.
- (3) Subject to the provisions of this section, the local authority shall, on receipt of an application under subsection (1) of this section, register the applicant in respect of the establishment named in the application and issue to him a certificate of registration:

Provided that the local authority may refuse to register the applicant if they are satisfied—

- (a) that he or any person employed or proposed to be employed by him in the management of the establishment or any part thereof is not a fit person, whether by reason of age or otherwise, to carry on or to be so employed at an establishment of such a description as the establishment named in the application; or
- (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the establishment or any premises

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- used in connection therewith are not fit to be used for an establishment of such a description as aforesaid; or
- (c) that the way in which it is proposed to conduct the establishment is such as not to provide services or facilities reasonably required by persons resorting to such an establishment.
- (4) The local authority may at any time cancel the registration of a person in respect of an establishment on any ground which would entitle them to refuse an application for the registration of that person in respect of that establishment, or on the ground that that person has been convicted of an offence against this section or against any regulations under this Part of this Act relating to the conduct of establishments, or on the ground that any other person has been convicted of such an offence in respect of that establishment.
- (5) It shall be a condition of the registration of any person in respect of an establishment that the number of persons accommodated at any one time in the establishment (excluding persons carrying on or employed in the establishment and their families) does not exceed such number as may be specified in the certificate of registration; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the local authority consider appropriate for regulating the category of persons who may be received in the establishment.
- (6) If any condition imposed by or under the last foregoing subsection is not complied with, the person carrying on the establishment shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or subsequent conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment, and without prejudice to the foregoing provision the power of the local authority to cancel registration under subsection (4) of this section shall include power to cancel the registration on the ground that any such condition has not been complied with.
- (7) The certificate of registration under this section issued in respect of any establishment shall be kept affixed in a conspicuous place in the establishment; and if default is made in complying with this subsection the person carrying on the establishment shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine not exceeding two pounds in respect of each day during which the offence continues after conviction.
- (8) Notwithstanding anything in subsection (1) of this section, where the person registered under this section in respect of an establishment dies, his executor or his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the local authority may sanction, carry on the establishment without being registered in respect thereof.
- (9) Where an offence against this or the last foregoing section or any regulations under this Part of this Act relating to establishments has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.



- (10) The registers kept for the purposes of this section shall be available for inspection at all reasonable times, and a person inspecting any such register shall be entitled to make copies of entries therein.

### **63 Special provisions for registration by Secretary of State**

- (1) The Secretary of State may direct that applications for registration in respect of any establishment or any class of establishment shall be made to him and accordingly the provisions of the last foregoing section shall apply in relation to any such registration and to an application therefor with the substitution for any reference to a local authority of a reference to the Secretary of State.
- (2) Where in pursuance of this section the Secretary of State registers a person in respect of an establishment, or cancels such a registration, he shall notify the local authority in whose area the establishment is situated.
- (3) The Secretary of State may direct that persons registered with him in respect of any establishment or class of establishment under this section shall cease to be so registered and shall be registered by the appropriate local authority under this Part of this Act.

### **64 Appeals against refusal or cancellation of registration**

- (1) Not less than fourteen days before refusing an application for registration or cancelling any registration under this Part of this Act, the local authority or, as the case may be, the Secretary of State shall send by recorded delivery service to the applicant or to the person registered, as the case may be, notice of their intention.
- (2) Every such notice shall state the grounds on which the local authority or the Secretary of State intend to refuse or cancel the registration and shall contain an intimation that if within fourteen days after the receipt of the notice the applicant or person registered, as the case may be, informs the authority or the Secretary of State in writing of his desire to show cause, in person or by a representative, why the registration should not be refused or cancelled, as the case may be, the authority or the Secretary of State shall, before carrying out their intention, afford him an opportunity so to do.
- (3) If the local authority or the Secretary of State, after giving the applicant or person registered, as the case may be, an opportunity of being heard by them, decide to refuse the application for registration, or to cancel the registration, they shall send a notice to that effect by recorded delivery service to the applicant or person registered, as the case may be.
- (4) A person aggrieved by a notice of a local authority or of the Secretary of State refusing an application for registration under this Part of this Act or cancelling any registration thereunder may appeal to an appeal tribunal established by Schedule 5 to this Act; and the cancellation of any registration shall not take effect until the expiration of the time within which an appeal may be brought under this subsection or, where such an appeal is brought, before the determination of the appeal.
- (5) Any appeal under this section shall be brought within twenty-one days from the date of the notice to which the appeal relates.

### **65 Removal of persons from establishments**

- (1) Where—

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- (a) an establishment is carried on in contravention of section 61 of this Act; or
- (b) notice of intention to cancel the registration in respect of an establishment has been given in pursuance of the last foregoing section;

a local authority where the person carrying on the establishment is registered, or ought to be so registered, with them may, notwithstanding that the time for any appeal under the last foregoing section has not expired or that such an appeal is pending, forthwith remove from the establishment all or any of the persons for whom accommodation is being provided therein ; or, in the case of an establishment in respect of which the person carrying it on is registered with him or ought to be so registered, the Secretary of State may in the like circumstances require the local authority in whose area the establishment is situated so to act, and the local authority shall comply with that requirement.

- (2) In any case of urgent necessity the Secretary of State may exercise the power conferred on him by the foregoing subsection in respect of any establishment.
- (3) For the performance of the functions of a local authority under subsection (1) of this section, any person authorised in that behalf by the authority may, on producing, if so required, a duly authenticated document showing his authority to do so, enter any premises in which the establishment in question is being carried on.
- (4) Any person who obstructs the exercise of a power conferred by the last foregoing subsection shall be liable on summary conviction to a fine not exceeding ten pounds in the case of a first offence or fifty pounds in the case of a second or any subsequent offence.

## **66 Duty to furnish particulars of establishments**

- (1) Subject to the next following subsection, it shall be the duty of the person in charge of an establishment to send to the local authority or, as the case may be, the Secretary of State such particulars of the establishment and the persons accommodated or to be accommodated therein as the Secretary of State may from time to time prescribe, and the Secretary of State may prescribe different particulars for different classes of establishments.
- (2) A person in charge of an establishment shall comply with the provisions of the foregoing subsection—
  - (a) within three months from the date on which the establishment was first carried on ; and
  - (b) in every year (other than the year in which the establishment was first carried on) before such date as may be prescribed.
- (3) Where the Secretary of State varies the prescribed particulars to be furnished under subsection (1) of this section as respects establishments, then—
  - (a) the person in charge of an establishment shall send the prescribed particulars to the local authority or, as the case may be, to the Secretary of State within three months from the date of the variation; and
  - (b) as respects an establishment which was first carried on before, but not more than three months before, the date of the variation, paragraph (a) of the foregoing subsection shall not apply ; and
  - (c) paragraph (b) of the foregoing subsection shall not apply as respects the year in which the variation is made.

- (4) A person who fails to furnish particulars in accordance with the foregoing provisions of this section shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine not exceeding two pounds in respect of each day during which the failure continues after conviction.

#### **67 Inspection of establishments by local authorities**

- (1) Any duly authorised officer of a local authority may in the area of that authority enter any establishment where the person carrying on the establishment is registrable under section 62 of this Act for the purpose of making such examinations into the state and management of the place, and the condition and treatment of the persons in it, as he thinks necessary, and for the purpose of inspecting any records or registers required to be kept therein by virtue of this Part of this Act, and the provisions of subsections (2), (4) and (5) of section 6 of this Act shall apply in relation to an officer acting in pursuance of this section as they apply in relation to an officer of the Secretary of State acting in pursuance of that section.
- (2) Any such officer as aforesaid may at all reasonable times exercise the like powers of entry and inspection conferred on him by the foregoing subsection in respect of any place in the area of the local authority which is used or which that officer has reasonable cause to believe is being used as an establishment in respect of which the person carrying it on is registrable under section 62 of this Act.

#### **68 Visiting of persons in establishments on behalf of local authorities**

- (1) It shall be the duty of local authorities from time to time to cause persons in establishments in their area to be visited in the interests of the well-being of the persons, and any person authorised in that behalf by a local authority may on producing if so required a duly authenticated document showing his authority to do so, enter any establishment in the area of the authority for the purpose of visiting the persons in the establishment.
- (2) Any person authorised in that behalf by a local authority may, on producing, if so required, such a document as aforesaid, enter any establishment outside the area of the authority for the purpose of visiting children in the establishment who are in the care or under the supervision of the authority under Part II or Part III of this Act or persons who are receiving assistance from the authority under this Act.
- (3) Any person who obstructs the exercise of a power conferred by this section shall be liable on summary conviction to a fine not exceeding ten pounds in the case of a first offence or fifty pounds in the case of a second or any subsequent offence.

## PART V

### RETURN AND REMOVAL OF CHILDREN WITHIN UNITED KINGDOM

#### *Absence without leave*

- 69 Abscondment from a place of safety, or from the control of a person imposed by a supervision requirement**
- (1) If a child—
- (a) absconds from a place of safety in which he has been detained by virtue of this Act, or
  - (b) absconds from the control of a person under which he has been placed by a supervision requirement or by virtue of rules made by the Secretary of State under section 45 of this Act,
- he may be arrested without a warrant in any part of the United Kingdom or the Channel Islands.
- (2) A child arrested in pursuance of this section shall be brought back—
- (a) in a case falling within paragraph (a) of subsection (1), to the place of safety,
  - (b) in a case falling within paragraph (b) of that subsection, to the person under whose control he has been placed.
- (3) If, in the case of a child required to be brought back in pursuance of the last foregoing subsection—
- (a) the occupier of the place of safety, or
  - (b) the person under whose control he has been placed,
- is unwilling or unable to receive him, the child shall be detained in a place of safety until the reporter has considered, in pursuance of section 37 of this Act, whether the child may be in need of compulsory measures of care, or as the case may be, until he can be brought before a children's hearing for the consideration of his case or for a review of the supervision requirement to which he is subject.
- (4) A children's hearing arranged for the purposes of the last foregoing subsection shall meet within a period of seven days from the date of the commencement of the detention of the child, and no child shall be detained under that subsection after the hearing have met or beyond that period.
- (5) In this and the next following section any reference to a child absconding includes a reference to his being unlawfully taken away.
- 70 Abscondment from residential establishments**
- If a child who is required by a supervision requirement to reside in a residential establishment—
- (a) absconds from the establishment in which he resides ; or
  - (b) absconds from any hospital or other institution in which he is temporarily residing; or
  - (c) being absent on leave from the residential establishment, either runs away from the person in whose charge he is or fails to return to the establishment at the end of his leave ;

he may be arrested without a warrant in any part of the United Kingdom or the Channel Islands and brought back—

- (i) in a case falling within paragraph (b) to the place from which he absconded ; or
- (ii) where he has run away from the person mentioned in paragraph (c), to that person; or
- (iii) in any case, to the residential establishment.

## **71 Harboursing**

Any person who knowingly—

- (a) assists or induces or persistently attempts to induce a child so to act as to be liable to be brought back in pursuance of either of the two last foregoing sections, or
- (b) harbours or conceals a child so liable or prevents him from returning to a place or person mentioned in either of those sections,

shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

### *Transfer*

## **72 Supervision of children moving to England or Wales or Northern Ireland**

- (1) Where a children's hearing are satisfied that a child in respect of whom a supervision requirement under section 44(1)(a) of this Act is in force proposes to reside or is residing in England or Wales or in Northern Ireland they may either—
  - (a) discharge the supervision requirement; or
  - (b) send notification of the requirement to a juvenile court acting for the petty sessions area in which the child proposes to reside or is residing.
- (2) The juvenile court to which notification of a supervision requirement is sent under this section may make in respect of the child subject to that requirement a supervision order placing him under the supervision of a probation officer for a period not exceeding one year beginning with the day on which the notification was sent; and the provisions of the Children and Young Persons Acts 1933 to 1963 or, as the case may be, of the Children and Young Persons Act (Northern Ireland) 1950 shall apply to any such order as those provisions respectively apply to a supervision order within the meaning of section 5 of the Children and Young Persons Act 1963 or to a supervision order within the meaning of section 63(1)(d) of the said Act of 1950.
- (3) Where a case is disposed of by a juvenile court in pursuance of this section in respect of a child subject to a supervision requirement, the requirement shall cease to have effect.
- (4) In this section " petty sessions area " includes a division of the metropolitan area referred to in Part II of Schedule 2 to the Children and Young Persons Act 1963 and in relation to Northern Ireland means " petty sessions district" within the meaning of Part III of the Magistrates' Courts Act (Northern Ireland) 1964.

### **73 Supervision of children moving to Scotland**

- (1) Where a juvenile court in England or Wales or in Northern Ireland is satisfied that a child in respect of whom a probation order or a supervision order is in force proposes to reside or is residing in Scotland, the court may either—
  - (a) discharge the probation order or supervision order; or
  - (b) send notification of that order to the reporter of the local authority for the area in which the child proposes to reside or is residing;
 and on the receipt of such a notification it shall be the duty of the reporter to arrange a children's hearing for the consideration and determination of the case under Part III of this Act.
- (2) For the purposes of a children's hearing arranged in pursuance of the foregoing subsection the notification by a juvenile court of a probation order or supervision order shall be conclusive evidence of the existence of that order in relation to the child.
- (3) When a children's hearing have disposed of a case referred to them under this section the probation order or the supervision order in respect of the child shall cease to have effect.

### **74 Parent of a child in a residential establishment under a supervision requirement moving to England or Wales or Northern Ireland**

- (1) Where a children's hearing are satisfied that the parent of a child who is required to reside in a residential establishment under a supervision requirement made under section 44(1)(b) of this Act proposes to reside or is residing in England or Wales or in Northern Ireland they shall review the requirement, and on such review they may as they think proper—
  - (a) discharge the supervision requirement;
  - (b) continue the supervision requirement;
  - (c) vary the supervision requirement by making a supervision requirement under subsection (1)(a) of the said section 44 and send notification of that requirement in accordance with section 72(1)(b) of this Act; or
  - (d) make a report on the case to the Secretary of State with a recommendation for the transfer of the child in accordance with the following provisions of this section.
- (2) If the Secretary of State is for any reason unable to accept a recommendation for the transfer of a child made under paragraph (d) of subsection (1) of this section, he may refer the matter back to the children's hearing for their reconsideration of the case, or himself discharge the supervision requirement.
- (3) Where such a recommendation is made and is not dealt with under subsection (2) of this section, the Secretary of State may make an order transferring the child to the care of the managers of a school in England or Wales or in Northern Ireland, being an approved school within the meaning of the Children and Young Persons Act 1933 or, as the case may be, a training school within the meaning of the Children and Young Persons Act (Northern Ireland) 1950 or, if he thinks fit, committing him to the care of the local authority or, as the case may be, of the welfare authority in whose area the parent of the child proposes to reside or is residing.
- (4) The provisions of the Children and Young Persons Acts 1933 to 1963 or, as the case may be, of the said Act of 1950 shall apply to any order under this section transferring

a child to the care of the managers of an approved school or of a training school as if it were an approved school or a training school order made by a court on the date on which the supervision requirement was originally made under section 44 of this Act in respect of the child:

Provided that—

- (a) notwithstanding anything in section 71 of the said Act of 1933 or section 75 of the said Act of 1950, the order under this section shall not be authority for his detention in an approved school or in a training school after he has attained the age of eighteen years,
  - (b) the contributions to be made in respect of him under section 90 of the said Act of 1933 or under section 126 of the said Act of 1950 shall be made by such council as may be named in the order under this section, being the council within whose district his parent proposes to reside or is residing at the time of the order.
- (5) The provisions of the Acts of 1933 to 1963 or, as the case may be, of the said Act of 1950 shall apply to any order under this section committing a child to the care of a local authority or, as the case may be, of a welfare authority as if it were an order made by a court under those Acts or that Act.

## **75 Parent of a child subject to an approved school order or a committal order moving to Scotland**

- (1) Where the Secretary of State or the Minister of Home Affairs for Northern Ireland is satisfied that the parent of a child who is subject to an approved school or training school order proposes to reside or is residing in Scotland, he may refer the case to the reporter of the local authority of the area in which the parent of the child is proposing to reside or is residing and if the case is so referred the reporter shall arrange a children's hearing for the consideration and determination of the case under Part III of this Act.
- (2) Where a child has been committed to the care of a local authority in England or Wales under Parts III or IV of the Children and Young Persons Act 1933 or Part II of the Education Act 1944, or committed to the care of a welfare authority in Northern Ireland under Part III of the Children and Young Persons Act (Northern Ireland) 1950 or Part I of the Education Act (Northern Ireland) 1947 and that authority are satisfied that the parent of the child proposes to reside or is residing in Scotland, the authority may make the like reference of the case as mentioned in the foregoing subsection and the reporter shall arrange a children's hearing accordingly.
- (3) Any reference under subsection (1) or subsection (2) of this section shall include particulars of the approved school or training school order or, as the case may be, of the order committing the child to the care of the local or welfare authority;  
  
and for the purposes of any children's hearing arranged pursuant to the reference those particulars shall be conclusive evidence of the existence of that order in relation to the child.
- (4) When a children's hearing have disposed of a case referred to them under this section the order of the court in England or Wales or in Northern Ireland in respect of the child shall cease to have effect.

## **76 Procedure**

- (1) A children's hearing or juvenile court, in exercising any jurisdiction under this Part of this Act in respect of a child, may proceed in the absence of the child or his parent or both.
- (2) It shall be the duty of the reporter at any children's hearing arranged for the purposes of section 72 of this Act and of the clerk to any juvenile court referring a case to a reporter for the purposes of section 73 of this Act to ensure that all documents relating to the case or certified copies thereof are transmitted to the juvenile court or, as the case may be, to the reporter to which the case stands referred.
- (3) Where a child is to be transferred from a residential establishment in Scotland to any place in England or Wales or in Northern Ireland under this Part of this Act, it shall be the duty of the local authority responsible for the child to ensure the transfer of the child to that place.
- (4) Where a children's hearing is arranged under this Part of this Act in respect of a child subject to an approved school or training school order or committed to the care of a local authority in England or Wales or of a welfare authority in Northern Ireland, it shall be the duty of the managers of the approved school or of the training school or, as the case may be, of that local or welfare authority to ensure the transfer of the child to the place notified to them by the reporter.

## **77 Meaning of child for the purposes of this Part of this Act**

- (1) " Child " in this Part of this Act means—
  - (a) for the purpose of sections 69 to 71, a child within the meaning of Part III of this Act,
  - (b) for the purposes of section 73, a person under sixteen and
  - (c) for any other purpose, a person under eighteen.
- (2) " Parent " in this Part of this Act includes a guardian.

## **PART VI**

### CONTRIBUTIONS IN RESPECT OF CHILDREN IN CARE ETC.

## **78 Duty to make contributions in respect of children in care etc.**

- (1) Where a child has been received into care under Part II of this Act or a supervision requirement to which this Part of this Act applies has been made in respect of him, contributions in respect of the child (hereinafter in this Part of this Act referred to as the " maintainable child ") shall be payable—
  - (a) while the maintainable child is under sixteen years of age, by his father and mother;
  - (b) if he is over sixteen years of age and is engaged in remunerative employment, by the maintainable child himself.
- (2) Supervision requirements to which this Part of this Act applies are requirements made under paragraph (a) of section 44(1) of this Act which impose a condition of residence on a child, other than a condition that he resides at his own home, and requirements made under paragraph (b) of the said section 44(1).



- (3) In this Part of this Act " contributor " means a person liable to make contributions by virtue of subsection (1) of this section in respect of a maintainable child.

## **79 Recipients of contributions**

- (1) Subject to the provisions of the following subsection, contributions payable under the last foregoing section shall be payable to the local authority within whose area the contributor is residing, and shall, in the case of contributions paid in respect of a maintainable child in the care or under the supervision of a local authority, other than the authority to whom the contributions are payable as aforesaid, be paid over by the last-mentioned authority to that other authority, but subject to such deductions in respect of services rendered by the local authority to whom the contributions were payable as may be agreed between the authorities concerned or as, in default of agreement, may be determined by the Secretary of State.
- (2) Where a contributor is for the time being residing in England or Wales or Northern Ireland contributions payable by him under the last foregoing section shall be payable to the local authority having the care or supervision of the child.

## **80 Enforcement of duty to make contributions**

- (1) Where a child becomes a maintainable child by virtue of being received into care by a local authority under Part II of this Act or by virtue of a supervision requirement, any court of summary jurisdiction, having jurisdiction in the place where the contributor is for the time being residing, may, on the application of the local authority, at any time make an order on any contributor, hereinafter in this Act referred to as a contribution order, for weekly contributions in respect of the child of such amount as the court thinks proper.
- (2) Where a contribution order has been made on any person to whom any pension or income capable of being arrested is payable, the court making the order may at the same time, and any court of summary jurisdiction having jurisdiction in the place where such person is for the time being residing may at any time, after giving the person by whom the pension or income is payable an opportunity of being heard, order that such part as the court may see fit of the pension or income be paid to the local authority who are for the time being entitled to receive the contributions under the contribution order.
- (3) Any order made under the last foregoing subsection shall be an authority to the person by whom the pension or income is payable to make the payment so ordered and the receipt of the local authority for the time being entitled to receive the contributions shall be a good discharge to the person by whom the pension or income is payable.
- (4) Subject to the following provisions of this section, a contribution order in respect of a maintainable child shall remain in force—
- (a) if the child is in the care of a local authority under Part II of this Act, so long as he remains in their care under that Part;
  - (b) if the child is a maintainable child by virtue of a supervision requirement, so long as that requirement is in force.
- (5) No contribution shall be payable, by virtue of a contribution order by a contributor who is the maintainable child's father or mother, in respect of any period after the maintainable child becomes sixteen.

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- (6) A contribution order may be revoked or varied by any court of summary jurisdiction having jurisdiction in the place where the contributor is for the time being residing and shall be enforceable in like manner as a decree for aliment.
- (7) Where a contributor resides in England or Wales or Northern Ireland this section shall have effect as if for any reference to a court of summary jurisdiction having jurisdiction in a place where the contributor is for the time being residing there were substituted a reference to a court of summary jurisdiction having jurisdiction in any place within the area of the local authority having the care or supervision of the child.

## **81 Provisions as to decrees for aliment**

- (1) Where a maintainable child is illegitimate and no decree for aliment has been granted in respect of him, the local authority concerned shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment for aliment in respect of the child.
- (2) Where a maintainable child is illegitimate and a decree for aliment is in force, on the application of the local authority concerned, any court of summary jurisdiction having jurisdiction in the place where the father is for the time being residing may, at any time, order the payments under the decree for aliment to be paid to the local authority who are from time to time entitled under either of the last two foregoing sections to receive contributions in respect of the child.
- (3) Where a decree for aliment is obtained under this section or where an order made under this section in respect to a decree for aliment is in force any sums received under the decree for aliment shall be applied in like manner as if they were contributions received under a contribution order.
- (4)
  - (a) In this section the local authority concerned means the local authority which may make application for a contribution order in respect of a child under the last foregoing section;
  - (b) where the father of a child is resident in England or Wales or Northern Ireland, subsection (2) of this section shall have effect as if for the reference to a court of summary jurisdiction having jurisdiction in the place where the father is for the time being residing, there were substituted a reference to a court of summary jurisdiction having jurisdiction in any place within the area of the local authority concerned.

## **82 Recovery of arrears of contributions**

- (1) Where, by virtue of an order or decree made under either of the last two foregoing sections, any sum is payable to a local authority, the local authority in whose area the person liable under the order or decree is for the time being residing, or, as the case may be, the local authority having the care or supervision of the child to whom the order or decree relates, shall be entitled to receive and give a discharge for, and, if necessary, enforce payment of, any arrears accrued due under the order or decree, notwithstanding that those arrears may have accrued at a time when he was not resident in that area or, as the case may be, when the authority were not entitled to sums payable under the order or decree.
- (2) In any proceedings under either of the last two foregoing sections, a certificate purporting to be signed by the clerk to a local authority for the time being entitled

to receive contributions, or by some other officer of the authority duly authorised in that behalf, and stating that any sum due to the authority under an order or decree is overdue and unpaid, shall be sufficient evidence of the facts stated therein.

### **83 Variation of trusts**

- (1) Where a child is by virtue of a supervision requirement removed from the care of any person and that person is entitled under any trust to receive any sum of money in respect of the maintenance of the child, on the application of the local authority concerned any court of summary jurisdiction, having jurisdiction in the place where that person is for the time being residing, may at any time order the whole or any part of the sums so payable under the trust to be paid to the local authority, to be applied by the authority for the benefit of the child in such manner as, having regard to the terms of the trust, the court may direct.
- (2) Where the person in whose care a child has been residing is for the time being residing in England or Wales or Northern Ireland the foregoing subsection shall have effect as if for the reference to a court having jurisdiction in the place where that person is residing there were substituted a reference to a court of summary jurisdiction having jurisdiction in any place within the area of the local authority having the care or supervision of the child.

## **PART VII**

### MISCELLANEOUS AND GENERAL

#### *General*

### **84 Transfer of assets and liabilities**

Where any functions are transferred to a local authority by virtue of this Act all property, rights, liabilities and obligations relating to the performance of those functions which immediately before the date of transfer were the property, rights, liabilities and obligations of the body or person from which the functions are transferred shall on that date be transferred to and vest in the local authority or, as the case may be, the local authorities to which the functions have been transferred, and the provisions of Schedule 6 to this Act shall have effect for the purposes of this section.

### **85 Transfer and compensation of officers**

- (1) The Secretary of State shall provide by regulations for the transfer of existing officers of local authorities and of probation committees affected by the coming into operation of this Act and such regulations shall contain such provisions for the protection of the interests of any such existing officers as he may consider necessary.
- (2) Without prejudice to their generality, regulations under the foregoing subsection may include provision for the determination by the Secretary of State of questions arising out of the allocation of existing officers of a probation committee to any of the local authorities in whose area the area, or part of the area, of that committee is situated immediately before the commencement of this Act.

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- (3) The Secretary of State may make regulations for the extending, with such modifications as may be specified in the regulations, of the provisions of the Local Government Superannuation (Scotland) Acts 1937 to 1953, or of any local Act scheme within the meaning of those Acts, to such existing officers of local authorities and of probation committees as are transferred by virtue of this Act or for modifying in respect of such officers, as may be so specified, the provisions of the said Acts or any such scheme.
- (4) The Secretary of State shall make regulations providing for the payment by such authorities or other persons as may be prescribed by, or determined under the regulations, but subject to such exceptions or conditions as may be so prescribed, of compensation to or in respect of persons who are the holders of any such place, situation or employment as may be so prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to the provisions of this Act.
- (5) Regulations under the last foregoing subsection may include provision as to the manner in which and the person to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations.
- (6) Different regulations may be made under this section in relation to different classes of persons and different circumstances, and any such regulations may be so framed as to have effect as from a date earlier than the making thereof, so however that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person (other than the person responsible for the payment of compensation) in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date of the making thereof.
- (7) Any regulations made under this section may apply to such officers of approved school managers as the Secretary of State may specify in the regulations.
- (8) In this section—
  - " existing officer " means an officer serving on such date or dates as may be specified in the regulations relating to him;
  - " officer " includes the holder of any place, situation or employment.

**86 Adjustments between authority providing accommodation etc., and authority of area of residence**

- (1) Any expenditure which apart from this section would fall to be borne by a local authority—
  - (a) in the provision under this Act of accommodation for a person ordinarily resident in the area of another local authority, or
  - (b) in the provision under Part II of this Act of services and facilities for a person ordinarily so resident (including, in the case of a child, any expenses incurred after he has ceased to be a child, and, in the event of his care being taken over by virtue of section 15(4) of this Act including also any travelling or other expenses incurred in connection with the taking over), or
  - (c) for the conveyance of a person ordinarily resident as aforesaid, or
  - (d) in administering a supervision requirement in respect of a person ordinarily resident as aforesaid,

shall be recoverable from the other local authority, and in this subsection any reference to another local authority includes a reference to a local authority in England or Wales.

- (2) Any question arising under this section as to the ordinary residence of a person shall be determined by the Secretary of State, and the Secretary of State may determine that a person has no ordinary residence.
- (3) In determining for the purposes of subsection (1) of this section the ordinary residence of any person or child, any period during which he was a patient in a hospital forming part of the hospital and specialist services provided under Part II of the National Health Service Act 1946 or Part II of the National Health Service (Scotland) Act 1947 or, in the case of a child, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a supervision requirement, supervision order or probation order or the conditions of a recognizance, or while boarded out under this Act or under the Children Act 1948, the Children and Young Persons Act 1933 or the Children and Young Persons (Scotland) Act 1937 by a local authority or education authority shall be disregarded.

## **87 Charges that may be made for services and accommodation**

- (1) Subject to the provisions of section 14 of this Act, and of this section, a local authority may recover from persons availing themselves of any service provided under this Act such charges (if any) as, having regard to the cost of the service, the authority may determine, whether generally or in the circumstances of any particular case.
- (2) Persons, other than maintainable children, for whom accommodation is provided under this Act, shall be required to pay for that accommodation in accordance with the subsequent provisions of this section.
- (3) Subject to the following provisions of this section, accommodation provided under this Act shall be regarded as accommodation provided under Part III of the National Assistance Act 1948, and sections 22(2) to (9) and 26(2) to (4) (charges for accommodation and provision of accommodation in premises maintained by voluntary organisations) and sections 42 to 44 of the said Act of 1948 (which make provision for the mutual maintenance of wives and husbands and the maintenance of their children by recovery of assistance from persons liable for maintenance and for affiliation orders, etc.) shall apply accordingly.
- (4) In the application of the said section 22, for any reference to the Minister there shall be substituted a reference to the Secretary of State, and in the application of the said section 26, any references to arrangements under a scheme for the provision of accommodation shall be construed as references to arrangements made by a local authority with a voluntary organisation for the provision of accommodation under this Act.
- (5) The Secretary of State may, with the consent of the Treasury, make regulations for modifying or adjusting the rates at which payments under this section are made, where such a course appears to him to be justified, and any such regulations may provide for the waiving of any such payment in whole or in part in such circumstances as may be specified in the regulations.
- (6) A local authority may refer to the Supplementary Benefits Commission for investigation any question arising as to the resources or other circumstances of a person applying for accommodation under this Act or for whom such accommodation is being provided.

**88 Duty of parents to notify change of address**

- (1) Where—
  - (a) a child is received into the care of a local authority under Part II of this Act; or
  - (b) he is subject to a supervision requirement,the parents of the child shall keep the local authority responsible for the supervision or care of the child informed of the parents' address.
- (2) The parent of a child to whom the foregoing subsection relates and who knowingly fails to comply with the requirements of that subsection shall be liable on summary conviction to a fine of ten pounds; but in any proceedings under this section it shall be a defence that the accused was at the material time residing at the same address as the other parent and had reasonable cause to believe that the other parent kept the local authority responsible for the supervision or the care of the child informed of the address of both parents.
- (3) A father who is making any payment to a local authority by virtue of any order or decree under Part VI of this Act shall be regarded as a parent for the purposes of this section.

**89 Application of Tribunals and Inquiries Act 1958**

Part II of Schedule 1 to the Tribunals and Inquiries Act 1958 shall have effect as if—

- (a) any children's hearing constituted and arranged in pursuance of this Act, and
- (b) any appeal tribunal established under Schedule 5 to this Act,

were specified therein.**90 Orders, regulations etc.**

- (1) Any power to make regulations or orders (other than orders under sections 52 and 58 and Part V of this Act), or to prescribe any matter, or to make rules conferred on the Secretary of State by this Act shall be exercisable by statutory instrument.
- (2) Any statutory instrument made in the exercise of any power to make regulations conferred by this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make orders shall include a power, exercisable in the like manner and subject to the same conditions, to vary or revoke any such order.

**91 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of the Secretary of State under this Act, and
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

**92 Effect of Act on rate support grant**

- (1) The Secretary of State shall have power, by an order made in the like manner and subject to the like provisions as a rate support grant order, to vary the provisions of

any rate support grant order made before the commencement of this Act for a grant period ending after the commencement of this Act.

- (2) Any order made by virtue of this section may be made for all or any of the years comprised in the said rate support grant period, as may be specified in the order, and in respect of the year or years so specified shall increase the annual aggregate amount of the rate support grants to such extent as may appear to the Secretary of State to be appropriate having regard to any additional expenditure incurred or likely to be incurred by councils of counties or of large burghs in consequence of the passing of this Act.
- (3) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by section 4 of the Local Government (Scotland) Act 1966 (which confers power to vary rate support grant orders in consequence of unforeseen increases in the level of prices, costs or remuneration).
- (4) In this section the expressions " rate support grant order " and " grant period " have the meanings respectively assigned to them by subsection (1) and subsection (3) of section 3 of the Local Government (Scotland) Act 1966.

### *Supplementary*

## **93 Transitional provisions**

The transitional provisions set out in Schedule 7 to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

## **94 Interpretation**

- (1) In this Act, except where otherwise expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—
  - " approved school " means a school approved by the Secretary of State under section 79 of the Children and Young Persons Act 1933,
  - " approved school order " has the meaning assigned to it by section 107(1) of the Children and Young Persons Act 1933,
  - " children's panel " and " children's hearing " have the meanings respectively assigned to them by sections 33(1) and 34(1) of this Act,
  - " compulsory measures of care " means, in relation to a child, such measure of care as may be imposed upon him by a children's hearing,
  - " constable " means a constable of a police force within the meaning of the Police (Scotland) Act 1967,
  - " contributor " and " contribution order " have the meanings respectively assigned to them by sections 78 and 80 of this Act,
  - " establishment " means an establishment managed by a local authority, voluntary organisation or any other person, which provides non-residential accommodation for the purposes of this Act, whether for reward or not,
  - " functions " shall include 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, or in relation to a

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child includes any person who, in the opinion of the court or children's hearing having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the charge of or control over the child,

" hospital " means—

- (a) any hospital vested in the Secretary of State under the National Health Service (Scotland) Act 1947,
- (b) any private hospital registered under the Mental Health (Scotland) Act 1960, and
- (c) any State hospital, within the meaning of Part VII of the said Act of 1960,

" local authority ", in relation to Scotland, has the meaning assigned to it by section 1(2) of this Act,

" maintainable child " has the meaning assigned to it by section 78 of this Act,

" mental disorder " has the meaning assigned to it by section 6 of the Mental Health (Scotland) Act 1960,

" mental health officer " means an officer of a local authority appointed to act as a mental health officer for the purposes of the said Act of 1960,

" parent " means either or both parents and.—

- (a) in relation to a child adopted in pursuance of any enactment, means the person or persons by whom he was adopted to the exclusion of his natural parents,
- (b) in relation to a child who is illegitimate, means his mother to the exclusion of his father,

" performance ", in relation to functions, includes the exercise of powers as well as the performance of duties, and " perform " shall be construed accordingly,

" persons in need " means persons who,

- (a) are in need of care and attention arising out of infirmity, youth or age ; or
- (b) suffer from illness or mental disorder or are substantially handicapped by any deformity or disability ; or
- (c) have been rendered homeless and are in need of temporary accommodation; or
- (d) being persons prescribed by the Secretary of State who have asked for assistance, are, in the opinion of a local authority, persons to whom the authority may appropriately make available the services and facilities provided by them under this Act,

" place of safety " means any residential or other establishment provided by a local authority, a police station, or any hospital, surgery or other suitable place, the occupier of which is willing temporarily to receive a child,

" probation order ", in relation to an order imposed by a court in England or Wales, has the meaning assigned to it by section 3 of the Criminal Justice Act 1948, and in relation to such an order, imposed by a court in Northern Ireland, has the same meaning as in the Probation Act (Northern Ireland) 1950,

" residential establishment " means an establishment managed by a local authority, voluntary organisation or any other person, which provides residential accommodation for the purposes of this Act, whether for reward or not,

" school age " has the meaning assigned to it by section 32(1) of the Education (Scotland) Act 1962,



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" supervision order ", in relation to an order imposed by a court in England or Wales, has the meaning assigned to it by section 5 of the Children and Young Persons Act 1963, and in relation to an order imposed by a court in Northern Ireland has the meaning assigned to it by section 63(1)(d) of the Children and Young Persons Act (Northern Ireland) 1950,

" supervision requirement " has the meaning assigned to it by section 44(1) of this Act,

" training school " means a school approved by the Ministry of Home Affairs for Northern Ireland under section 106 of the Children and Young Persons Act (Northern Ireland) 1950,

" training school order " means an order made by a court in Northern Ireland sending a child or young person to a training school,

" 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,

" welfare authority " means a welfare authority constituted under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946.

- (2) Unless the context otherwise requires, any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied by or under any other enactment including this Act.
- (3) Without prejudice to the last foregoing subsection, any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modifications.

## **95 Minor and consequential amendments, repeals and savings**

- (1) The enactments described in Schedule 8 to this Act shall have effect subject to the amendments therein specified, being minor amendments and amendments consequential on the foregoing provisions of this Act.
- (2) The enactments described in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Subject to any expression in this Act to the contrary, in so far as any appointment, agreement or any provision in a regulation or order made or any notice, direction, consent, approval, warrant or certificate given under any enactment repealed by this Act or registration effected, or deemed to have been effected, proceedings instituted or other thing done under any such enactment could have been made, passed, given, granted, effected, instituted or done under a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as if it had been made, passed, given, granted, effected, instituted or done to that corresponding provision and may be amended, varied, revoked or enforced accordingly, and, in the case of any legal proceedings, may be continued and appealed against as if this Act had not been passed.

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**96 Power of Parliament of Northern Ireland to make consequential amendments of this Act**

Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act 1920, that Parliament may, by any Act re-enacting (with or without modifications) or amending the law in force in Northern Ireland with respect to children requiring compulsory measures of care, make such amendments of the provisions of this Act which extend to Northern Ireland as may be necessary for the purpose of bringing the said provisions into conformity with the provisions of that Act.

**97 Extension of certain provisions of Act to England and Wales, Northern Ireland, and the Channel Islands**

- (1) The following provisions of this Act shall extend to England and Wales, that is to say—
  - section 58
  - sections 86 and 87
  - Part V
  - Schedule 8
  - Part II of Schedule 9.
- (2) The following provisions of this Act shall extend to Northern Ireland, that is to say—
  - Part V
  - section 96
  - Schedule 8.
- (3) The following provisions of this Act shall extend to the Channel Islands, that is to say sections 69 to 71.
- (4) Save as aforesaid, and except in so far as it relates to the interpretation or commencement of the provisions, this Act shall extend only to Scotland.

**98 Commencement**

- (1) This Act (except this section) shall come into operation on such date as the Secretary of State may by order appoint.
- (2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.

**99 Short title**

This Act may be cited as the Social Work (Scotland) Act 1968.

## SCHEDULES

### SCHEDULE 1

Section 19.

#### AMENDMENT OF CHILDREN ACT 1958

- 1 After section 1 there shall be inserted the following section—
  - “1A In Scotland, without prejudice to the provisions of the Social Work (Scotland) Act 1968, it shall be the duty of every local authority to secure the welfare of children within then-area who are foster children within the meaning of this Part of this Act and, where the local authority consider such a course to be necessary or expedient for the purposes of this section, they shall cause the children to be visited from time to time by their officers, who shall give such advice as to the care and maintenance of the children as may appear to be necessary”.
- 2
  - (1) In section 2(1), for the words " and maintenance " to the word " month " there shall be substituted the words " is undertaken for a period of more than six days beginning with the day on which the child is received into that care ".
  - (2) In section 2(3), after paragraph (e) there shall be added the following paragraph—
    - “(f) who undertakes his care for a period not exceeding one month beginning with the day the child is received into that care, unless—
      - (i) the person during the year immediately preceding the date of receiving into care has had the care of one or more foster children for periods which in the aggregate exceed three months, or
      - (ii) the number of continuous periods which exceed six days beginning on the day of receiving into care, throughout which a particular child or any child was in the care of that person in that period of one year, exceeds three.”
  - (3) Section 2(6) and (7) shall be omitted.
- 3 In section 9, after the word " foster-child " there shall be inserted the words " for reward ".

## SCHEDULE 2

Section 31.

### AMENDMENT OF PART IV OF THE CHILDREN AND YOUNG PERSONS (SCOTLAND) ACT 1937

#### PART I

##### *General Adaptations*

- 1 Subject to the provisions of Part II of this Schedule any reference to a child or to a young person shall be construed as a reference to a child within the meaning of Part III of the Social Work (Scotland) Act 1968.
- 2 Any reference to a court of summary jurisdiction or to a juvenile court (except in section 54) shall be construed as a reference to the sheriff sitting summarily.

#### PART II

##### *Specific Adaptations*

- 3 (1) In section 40(1) for the words "apparently under the age of seventeen years " there shall be substituted the words " who is apparently a child ".
- (2) In section 40(2) for the words " apparently under the age of seventeen years" there shall be substituted the words " who is apparently a child, " and for the words " remand home " there shall be substituted the words " place of safety other than a police station ".
- (3) After subsection (2) there shall be inserted the following subsections—
- “(3) Where a person who is apparently a child has been detained under this section and is not so liberated as aforesaid and it is decided not to proceed with the charge against him a constable shall so inform the reporter of the local authority for the area in which the child is detained, and the child may continue to be detained in a place of safety until the reporter has decided on the course that should be taken with regard to the child under the provisions of Part III of the Social Work (Scotland) Act 1968.
- (4) A child shall not continue to be detained under this section—
- (a) where the reporter considers the child does not require compulsory measures of care, or
- (b) after the day on which a children's hearing first sit to consider his case in pursuance of section 37(4) of the Social Work (Scotland) Act 1968, or
- (c) for a period exceeding seven days.”
- 4 (1) In section 41, for subsection (1) there shall be substituted the following subsection—
- “(1) Any court, on remanding or committing for trial a child who is not liberated on bail shall, instead of committing him to prison, commit him to the local authority in whose area the court is situated to be detained in a place of safety chosen by the local authority for the period for which he is remanded or until he is liberated in due course of law:

Provided that in the case of a child over fourteen years of age it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be so committed, or that he is of so depraved a character that he is not a fit person to be so detained.”

- (2) In subsection (2), for the words " young person" where first occurring there shall be substituted the words " child over fourteen years of age ", and where secondly occurring there shall be substituted the word " child ".

5 For section 43 there shall be substituted the following section—

**“43 Notice to local authority of charges against children, and duty of local authority to furnish reports and information to courts.**

(1) Where a child is to be brought before a court notification of the day and hour when, and the nature of the charge on which, the child is to be so brought shall be sent by the chief constable of the area in which the offence is alleged to have been committed, to the local authority for the area in which the court will sit.

(2) Where a local authority have received a notification under the foregoing subsection they shall make such investigations and render available to the court a report which shall contain such information as to the home surroundings of the child as appear to them will assist the court in the disposal of his case, and the report shall contain information, which the appropriate education authority shall have a duty to supply, as to the school record, health and character of the child.”

6 In section 44, after the word " child" where first occurring there shall be inserted the words " under fourteen years of age ".

7 In section 46(1) for the words " child or young person ", in both places where these words occur, there shall be substituted the words " a person under the age of seventeen years ".

8 (1) In section 47(1) the words " until he can be brought before a juvenile court" shall be omitted wherever occurring.

(2) After subsection (1) there shall be inserted the following subsection—

“(1A) A child shall not continue to be detained under the last foregoing subsection—

- (a) where the reporter considers the child does not require compulsory measures of care, or
- (b) after the day on which a children's hearing first sit to consider his case in pursuance of section 37(4) of the Social Work (Scotland) Act 1968, or
- (c) for a period exceeding seven days”.

9 In section 48, for the words " any child or young person " there shall be substituted the words " any person under the age of seventeen ", and for the words " the child or young person " there shall be substituted the words " the person ".

10 For section 50 there shall be substituted the following section—

**“50 Child charged jointly with person who is not a child.**

When a child has been charged with an offence jointly with a person who is not a child the provisions of sections 52 to 54 of this Act and section 49 of the Children and Young Persons Act 1933 shall not apply to summary proceedings before the sheriff in respect of the charges.”

- 11 (1) In section 52(1), for the words from the beginning to the words " a juvenile court", second occurring, there shall be substituted the words—

“Where summary proceedings are brought in respect of an offence alleged to have been committed by a child the sheriff shall sit either in a different building or room from that in which he usually sits or on different days from those on which other courts in the building are engaged in criminal proceedings ; and no person shall be present at any sitting to which this subsection applies”.

- (2) For subsection (2) there shall be substituted the following subsection—

“(2) The power to make rules conferred on the High Court of Justiciary under section 76(1) of the Summary Jurisdiction (Scotland) Act 1954 shall include power to make rules as respects the procedure in cases to which the foregoing subsection applies.”

- 12 In section 53(5), for the words from the beginning to the words " juvenile court", there shall be substituted the words " Any direction in any enactment that a charge shall be brought before a juvenile court shall be construed as a direction that he shall be brought before the sheriff sitting as a court of summary jurisdiction, and no such direction ".

- 13 In section 54(1), after the word " report" there shall be inserted the words " of any summary proceedings in the sheriff court in respect of an offence by a child or ", and for the words " child or young person " in both places where these words occur there shall be substituted the words " a person under the age of seventeen years ".

- 14 In section 57(2), for the words from the beginning to " harm " there shall be substituted the words " Where a child is convicted on indictment ".

- 15 In section 58, the words from the beginning to " imprisonment or " shall be omitted and for the words from " he be committed " to the end of the section, there shall be substituted the words " the child be detained for such period, not exceeding one month, as may be specified in the order in a place chosen by the local authority in whose area the court is situated. "

- 16 After section 58 there shall be inserted the following section—

**“58A Committal for residential training.**

- (1) Where a child charged summarily before the sheriff with an offence pleads guilty to, or is found guilty of, that offence the sheriff may order the child to be committed for such period not exceeding two years as may be specified in the order to such a place as the Secretary of State may direct for the purpose of undergoing residential training, and where such an order is made the child shall during that period be liable to be detained in that place subject to such conditions as the Secretary of State may direct.

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- (2) A child detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.
- (3) Any child so detained as aforesaid may at any time be released conditionally or unconditionally by the Secretary of State, and any such child conditionally released shall be liable to recall on the directions of the Secretary of State and if he fails to comply with any condition of his release he may be apprehended without warrant and taken to the place from which he was released.”
- 17 In section 59(2), after the words "for his" there shall be inserted the words " co-operation in securing the child's ".
- 18 In section 62, for the words " an approved school" there shall be substituted the words " a residential establishment ", and in paragraph (c), for the word " school" there shall be substituted the words " residential establishment ".
- 19 In section 63(3), for the words " juvenile offenders " there shall be substituted the word " children ", and the words " under the Probation of Offenders Act 1907 " shall be omitted.
- 20 For section 67 there shall be substituted the following section—
- “67 Any court by or before which a person is convicted of having committed in respect of a child any of the offences mentioned in the First Schedule to this Act or any offence under section 21 of this Act, may refer the child to the reporter of the local authority in whose area the child resides and certify that the said offence shall be a ground established for the purposes of Part III of the Social Work (Scotland) Act 1968.”

### SCHEDULE 3

Section 33.

#### CHILDREN'S PANELS

##### *Appointment*

- 1 The Secretary of State shall appoint such number of members of children's panels for each local authority area as he considers appropriate and from among these members he shall appoint a chairman and a deputy chairman.
- 2 A member of a children's panel shall hold office for such period as is specified by the Secretary of State, but may be removed from office by the Secretary of State at any time.

##### *Children's Panel Advisory Committee*

- 3 Each local authority shall form a Children's Panel Advisory Committee consisting of two members nominated by the local authority and three members nominated by the Secretary of State at least one of whom shall be resident in the area of the local authority.
- 4 The chairman of the Children's Panel Advisory Committee shall be appointed by the Secretary of State from among the members he has nominated, and shall be resident in the area of the local authority.

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

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- 5 It shall be the duty of the Children's Panel Advisory Committee—
- (a) to submit names of possible panel members to the Secretary of State ;
  - (b) to advise the Secretary of State as required on the suitability of persons referred to him as possible members ; and
  - (c) to advise the Secretary of State on such matters relating to the general administration of panels as he may refer to them.

*Recruitment and Training of Panel Members*

- 6 The Secretary of State may make such arrangements as he considers appropriate to recruit and train members or possible members of children's panels.
- 7 Each local authority may make such arrangements as they consider appropriate—
- (a) to enable the Children's Panel Advisory Committee to obtain names for submission to the Secretary of State as possible panel members, and
  - (b) to train panel members or possible panel members.

*Expenses of Panel Members*

- 8 A local authority may pay the members or possible members of the children's panel and members of the Children's Panel Advisory Committee for their area such travelling, subsistence and other expenses as the Secretary of State may prescribe in regulations.

SCHEDULE 4

Section 53.

AMENDMENT OF LEGAL AID (SCOTLAND) ACT 1967

- 1 In section 1, in subsection (6), for the words " any civil proceedings " there shall be substituted the words " civil proceedings other than the proceedings mentioned in the next following subsection ", and at the end of that subsection there shall be inserted the following subsection—
- “(6A) A child or his parent shall not be given legal aid in connection with any proceedings before the sheriff or on any subsequent appeal to the Court of Session, being proceedings in respect of a decision of a children's hearing or of an application to the sheriff for a finding under the Social Work (Scotland) Act 1968, unless—
- (a) he is entitled to receive such aid by virtue of subsection (5A) of the next following section ; or
  - (b) the sheriff, in respect of proceedings before him, is satisfied that the giving of legal aid is necessary in the interests of the child and grants a legal aid certificate ; or
  - (c) it appears, in respect of an appeal to the Court of Session, that the child or his parent has substantial grounds for making the appeal and that it is reasonable that the child or his parent should receive legal aid in the particular circumstances of the case”.
- 2 (1) In section 2(1), after the words " civil proceedings " there shall be inserted the words " , other than proceedings mentioned in subsection (6A) of the foregoing section "



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and after the words " refused legal aid " there shall be inserted the words " in respect of such proceedings first mentioned ".

- (2) In subsection (2), for the words from " in connection with " to the end of the subsection there shall be substituted the words—

“shall be available in connection with—

- (a) criminal proceedings, to an accused person, and
- (b) the civil proceedings mentioned in subsection (6A) of the foregoing section, to the child or his parent,

where the court is satisfied after consideration of the financial circumstances of the accused or, as the case may be, of the child and his parent that the expenses of the case cannot be met without undue hardship to the accused or his dependants or, as the case may be, to the child or his parent, or the dependants of either”.

- (3) In subsection (3), at the end there shall be inserted the following paragraph—

“(e) in relation to civil proceedings mentioned in the said subsection (6A) the sheriff”.

- (4) In subsection (4), at the end there shall be added the following paragraphs—

“(c) in any case the sheriff has made legal aid available to a child or his parent in the civil proceedings mentioned in the said subsection (6A), the child, or, as the case may be, his parent, shall continue to be regarded as financially eligible for legal aid in connection with any subsequent proceedings on appeal to the sheriff or to the Court of Session or on remit from that Court;

(d) legal aid has not been made available to a child or his parent in such civil proceedings as aforesaid, and his case comes before the Court of Session, legal aid shall be available to him if that Court is satisfied of his financial eligibility as aforesaid.”.

- (5) After subsection (5), there shall be inserted the following subsection—

“(5A) Notwithstanding the provisions of this Act relating to legal aid in civil proceedings, such aid shall be available to a child or his parent without enquiry into his resources in any appeal under Part III of the Social Work (Scotland) Act 1968 by the child or parent against the child's detention in a place of safety while awaiting disposal of his case by a children's hearing.”

- (6) In subsection (6), at the end of the subsection there shall be added the following words " ; but the provisions of paragraphs (c), (d) and (e) of this subsection and the next following subsection shall not apply to the civil proceedings mentioned in subsection (6A) of the foregoing section or in subsection (5A) of this section ".

- 3 In section 20(1), after the word "requires—" there shall be inserted the following definition—

“the expression ' child ' has the same meaning as in Part III of the Social Work (Scotland) Act 1968 ;”and

after the definition of " member of the forces ", there shall be inserted the following definition—

“" the expression ' parent ' has the same meaning as in Part III of the Social Work (Scotland) Act 1968”.

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

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## SCHEDULE 5

Section 64.

## APPEAL TRIBUNALS

- 1 For the purpose of enabling appeal tribunals to be constituted as occasion may require, there shall be appointed by the Secretary of State a panel (hereafter referred to as "the panel") of persons to act when required as members of any such tribunal.
- 2 No officer of any Government department shall be qualified to be appointed to the panel.
- 3 Any person appointed to be a member of the panel shall hold office for such period and subject to such conditions as may be determined by the Secretary of State.
- 4 Where any appeal is required to be determined by a tribunal constituted in accordance with this Schedule, the tribunal shall consist of a sheriff (or, if he is unable to act, a person qualified for appointment as sheriff nominated by the Lord President of the Court of Session), who shall be chairman, and two other members being impartial persons who shall be appointed from the panel by the Secretary of State.
- 5 The Secretary of State may—
- (a) pay to members of tribunals constituted as aforesaid such fees and allowances as he may with the consent of the Treasury determine,
  - (b) defray the expenses of such tribunals up to such amounts as he may with the like consent determine.
- 6 (1) The Secretary of State may make rules—
- (a) as to the tenure of office of members of the panel,
  - (b) as to the procedure of tribunals and the procedure in connection with the bringing of matters before a tribunal, and as to the time within which matters may be brought before tribunals,
  - (c) as to the payment by the Secretary of State to persons attending proceedings before tribunals of travelling and other allowances (including compensation for loss of remunerative time).
- (2) The power under this paragraph to make rules as to procedure includes power to make provision as to the representation of one person in any proceedings by another person.
- 7 In this Schedule the expression "sheriff" does not include a sheriff-substitute, and means the sheriff of the county in which the establishment to which the appeal relates is situated or is proposed to be established.

## SCHEDULE 6

Section 84.

## TRANSFER OF ASSETS AND LIABILITIES

- 1 Every agreement to which the transferor was a party immediately before the date of transfer shall have effect as from that date in favour of or against the transferee as if the transferee had been a party to the agreement instead of the transferor.
- 2 Where the functions of the transferor are transferred to more than one transferee the property, rights, liabilities and obligations of the transferor shall be allocated

- in such a manner as relates to the allocation of the functions transferred to each of the transferees.
- 3 Any legal or other proceedings to which the transferor is a party which are pending on the date of the transfer may be continued on or after that date as if the transferee instead of the transferor had been that party.
- 4 The Secretary of State may make regulations for facilitating the transfer of any property, rights, liabilities or obligations in pursuance of this Act.
- 5 In this Schedule—
- (a) "transferor" means a body or person from whom a function has been transferred under this Act and from whom any property, right, liability or obligation has been so transferred, and
  - (b) " transferee " means a local authority to whom a function or any property, right, liability or obligation has been so transferred,
- and " transfer of function " includes the giving of a function to a local authority which was previously performed by another body including another local authority.

## SCHEDULE 7

Section 93.

### TRANSITIONAL PROVISIONS

#### *Registration of existing establishments*

- 1 (1) Until the expiration of a period of two years beginning with the commencement of Part IV of this Act, or until registration is effected or refused under the said Part IV, whichever of those three events first occurs—
- (a) a registration in respect of any establishment under any enactment repealed by this Act shall for the purposes of this Act be deemed to be a registration kept by a local authority under section 63 thereof, and
  - (b) a registration in respect of any establishment (other than an approved school) not required under any enactment immediately before the said commencement but required thereafter shall for the purposes of this Act be deemed to be kept as aforesaid by a local authority so long as there is no change of user.
- (2) Notwithstanding the coming into operation of the said Part IV, the provisions of the said Part shall not apply in relation to approved schools until the commencement of Part III of this Act and thereafter, until the expiration of a period of two years beginning with the said commencement or until registration is effected or refused under the said Part IV, whichever of these three events first occurs, a registration in respect of an approved school required under the said Part IV shall, subject to the provisions of the next following paragraph, be deemed to be kept by the Secretary of State under that Part.
- (3) Before the expiration of the period of two years mentioned in either of the two foregoing sub-paragraphs, the persons responsible for the management of any establishment deemed to be registered as aforesaid shall, if they intend the establishment to continue for the purposes in respect of which it is so deemed, make application for registration in accordance with the provisions of the said Part IV.

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

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*Approved schools*

- 2 (1) The following enactments shall, notwithstanding the repeal or exclusion by this Act of any such enactment, continue to have effect, with any necessary modifications, in relation to establishments which were approved schools immediately before the commencement of Part III of this Act until such time as the Secretary of State otherwise directs, either generally or in regard to any particular establishment—
- (a) the Children and Young Persons (Scotland) Act 1937: sections 83(2) and (3) and 85(1), (2)(a) and (c) (surrender of certificate of approval of approved school and classification and administration etc. of approved schools); section 107(1)(a)(i) and (b) and (2) (exchequer grants and expenses of the Secretary of State);
  - (b) the Criminal Justice (Scotland) Act 1963: sections 21 and 22 (directions as to management of approved schools and constitution of managers).
- (2) Until such time as the Secretary of State makes a direction under sub-paragraph (1) of this paragraph in respect of an establishment the payments made by a local authority under this Act in respect of the expenses of carrying on the establishment shall be at such rate as the Secretary of State shall from time to time prescribe.
- (3) Until such time as aforesaid any contributions or sums received by a local authority by virtue of any order or decree made under Part VI of this Act, or deemed to be so made, in respect of a child in an establishment shall be paid to the Secretary of State, but subject to such deductions in respect of the services rendered by the authority as may be prescribed.

*Contributions in respect of children taken into care*

- 3 After the commencement of Part II of this Act and until the commencement of Part VI thereof, Part III of the Children Act 1948 shall have the like effect in relation to children taken into care under section 15 of this Act as it had in relation to children taken into care under section 1 of that Act.

*Approved school orders, fit person orders, and supervision orders*

- 4 (1) This paragraph applies to children who immediately before the commencement of Part III of this Act were in any of the following classes, that is to say children who are—
- (a) subject to an approved school order,
  - (b) committed to the care of a fit person under an order of a court,
  - (c) under a supervision order,
  - (d) subject to an order of committal to custody in a remand home.
- (2) Subject to the next following sub-paragraph, a child to whom this paragraph applies shall, on the coming into operation of the said Part III, continue to be subject to any such order as aforesaid, and any provision of any enactment applying to the operation of the order and the treatment of the child shall, notwithstanding the repeal or exclusion by this Act of any such provision, continue so to apply.
- (3) It shall be the duty of such local authorities as may be prescribed by the Secretary of State, by such date, and in such circumstances and in such cases as may be so prescribed to arrange for children to whom this paragraph applies to be brought before a children's hearing for the consideration and disposal of their cases under

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Part III of this Act, and on the disposal of a case the order relating to the child shall cease to have effect.

- (4) The provisions of the last foregoing sub-paragraph shall apply in the case of a child over the age of sixteen years who has not attained the age of eighteen years, but where a child has attained the age of eighteen years, on such date as the Secretary of State may prescribe, the order relating to the child shall cease to have effect.

#### *Jurisdiction of courts*

- 5 (1) Subject to the next following sub-paragraph, on the commencement of Part III of this Act, for the purpose of continuing the jurisdiction of courts in respect of children and young persons who before the said commencement have been charged with an offence, and in respect of children and young persons whose cases have been disposed of but where the courts have continuing functions at the time of that commencement arising from the form of disposal, the provisions of any enactment relating to those courts and cases in them shall, notwithstanding the repeal or exclusion by this Act of any such provisions, continue to have effect in relation to those courts and to those cases.
- (2) In the case of a juvenile court constituted under section 51 of the Children and Young Persons (Scotland) Act 1937, the provisions of the foregoing sub-paragraph shall apply until such time as the Secretary of State otherwise directs, and on any such direction being made any question arising from the imposition of an order of such a court shall be dealt with by the sheriff having jurisdiction in the former area of that court as if the order had been made by him.
- 6 On the coming into operation of the said Part III the jurisdiction of a juvenile court in relation to the care and protection of children shall cease, and any case of a child under the age of sixteen years which was before the court under that jurisdiction immediately before the said commencement shall stand referred to the reporter of the local authority in whose area the child is ordinarily resident, or, where his ordinary residence is not known or is furth of Scotland, to the reporter of the local authority in whose area the circumstances arose which brought his case before the court.

#### *Remand Home Grant*

- 7 Until such time as the Secretary of State may direct, section 107(a)(iii) of the Children and Young Persons (Scotland) Act 1937 shall continue to have effect.

#### *Probation Grant*

- 8 Until such time as the Secretary of State may by order direct, section 75(3)(a) and (b), (4) and (5) of the Criminal Justice (Scotland) Act 1949 shall continue to have effect.

#### *Interpretation*

- 9 In this Schedule the following expressions have the meanings assigned to them—  
" approved school " means a school approved under section 83 of the Children and Young Persons (Scotland) Act 1937.  
" approved school order " has the meaning assigned to it by section 110(1) of the said Act of 1937.

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" remand home " has the meaning assigned to it by section 78(1) of the Criminal Justice (Scotland) Act 1949.

" supervision order " has the meaning assigned to it by section 72 of the said Act of 1949.

## SCHEDULE 8

Section 95(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Criminal Appeal (Scotland) Act 1926*

- 1 In section 9(4)(d), for the words " remand home " and " home " there shall be substituted the words " place of safety ".

#### *Children and Young Persons Act 1933*

- 2 In section 70(2), in the proviso, after the words " 1948 " there shall be inserted the words " or Part II of the Social Work (Scotland) Act 1968 ", and after the words " probation order " there shall be inserted the words " or supervision requirement ".
- 3 In section 76(1B), after the words " probation order " there shall be inserted the words " or supervision requirement " and after the words " 1948 " there shall be inserted the words " or Part II of the Social Work (Scotland) Act 1968 ".
- 4 In section 90(6), after the words " 1948 " there shall be inserted the words " or Part II of the Social Work (Scotland) Act 1968 ", and after the words " probation order " there shall be inserted the words " or supervision requirement ".
- 5 In section 107(1), after the definition of " street " there shall be inserted the following definition—  
     "“ supervision requirement " has the same meaning as in the Social Work (Scotland) Act 1968 ;”

#### *Children and Young Persons (Scotland) Act 1937*

- 6 In section 38(3), for the words " an approved school " there shall be substituted the words " a residential establishment where education is provided ".
- 7 (1) In section 87(1), for the words from " to an approved school " to the end of the subsection there shall be substituted the words " to such place in Scotland as the Secretary of State may direct for the purposes of undergoing residential training, and after his transfer to that place may be dealt with and shall be subject to the provisions of this Act and of the Criminal Justice (Scotland) Act 1963 as if the order sending him to the school in England or Northern Ireland were an order for committal for residential training made under section 58A of this Act made upon the same date, and as if the order were authority for his detention for a period not exceeding the period for which he might be detained under the approved school order or, as the case may be, the training school order made in respect of him ".
- (2) In section 87(2) to (4), any reference to an approved school in Scotland shall be construed as a reference to a place in respect of which the Secretary of State has made, or may make, a direction under subsection (1).

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

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- (3) In section 87(3), the words from " approved school as " to the end of the subsection shall be omitted, and there shall be substituted the words " to such place in Scotland as the Secretary of State may direct for the purposes of undergoing residential training, and after his transfer to that place may be dealt with and shall be subject to the provisions of this Act and of the Criminal Justice (Scotland) Act 1963 as if the order were an order for committal for residential training made under section 58A of this Act made upon the same date ".
- 8 After section 101(2) there shall be inserted the following subsection—
- “(2A) Expenses incurred under this Act by a local authority shall be defrayed in like manner as the expenses of that authority under the Social Work (Scotland) Act 1968.”
- 9 (1) In section 103(1), for the words " whether charged with an offence or not" there shall be substituted the words " charged with an offence ".
- (2) After subsection (1), there shall be added the following subsection—
- “(1A) The court in making any inquiry in pursuance of the last foregoing subsection shall have regard to the application for the provisions of section 30(1) of the Social Work (Scotland) Act 1968 but an order or judgment of the court shall not be invalidated by any subsequent proof that the court was not informed that at the material time the person was subject to a supervision requirement or that his case had been referred to a children's hearing under Part V of that Act.”.
- (3) After subsection (4), there shall be added the following subsection—
- “(5) In subsections (1) and (2) of this section, references to a child or young person charged with an offence shall be construed as references to a child within the meaning of section 30(1) of the Social Work (Scotland) Act 1968.”.
- 10 In section 110(1), in the definition of "Child ", for the words "Part III" there shall be substituted the words " Parts III and IV "; and for the definition of " Place of safety " there shall be substituted the following definition—
- “Place of safety ' has the same meaning as in the Social Work (Scotland) Act 1968;”
- “Residential establishment ' has the same meaning as in the Social Work (Scotland) Act 1968.”

*National Health Service (Scotland) Act 1947*

- 11 (1) In section 15(1), after paragraph (f) there shall be inserted the following paragraph—
- “(g) the provision of any of the services which a local authority are required to provide under the Social Work (Scotland) Act 1968 ;”.
- (2) In subsection (4), after the words " education authorities" there shall be inserted the words " or any of the social work services which local authorities "; and after the words " education authority " there shall be inserted the words " or local authority ".
- 12 In section 27, at the end there shall be added the following subsection—
- “(4) On the coming into operation of section 1(4) of the Social Work (Scotland) Act 1968, a local health authority shall not perform any function under

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    this section which may be performed by a local authority by virtue of that section.”.

- 13 In section 63, after the words " foregoing section " there shall be inserted the words " or any local authority within the meaning of the Social Work (Scotland) Act 1968 ".

*National Assistance Act 1948*

- 14 In section 32(1), at the end there shall be inserted the words " , and in this subsection any reference to another local authority includes a reference to a local authority in Scotland ".

- 15 After section 41(1), there shall be inserted the following subsection—

    “(1A) The foregoing subsection shall, in relation to Scotland, have effect as if for the words from " to whom section " to the end of the subsection there were substituted the words " who are blind, deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury or such other disabilities as may be prescribed by the Minister.”.

- 16 In section 65, at the end, there shall be added the following paragraph—

    “(f) any reference however expressed to accommodation provided under Part III thereof shall be construed as a reference to accommodation provided under Part IV of the Social Work (Scotland) Act 1968”.

*Children Act 1948*

- 17 (1) In section 1(4), after the words "Secretary of State", there shall be inserted the words " and in this subsection any reference to another local authority includes a reference to a local authority in Scotland ".

- (2) In subsection (5), after the words "probation order", there shall be inserted the words " or supervision requirement ", and after the words " 1937", there shall be inserted the words " or Part II of the Social Work (Scotland) Act 1968 ".

- 18 In section 13(1), at the end, there shall be inserted the words " and arrangements may be made under this subsection for boarding out a child in Scotland, or for maintaining him in a residential establishment provided, or the provision of which is secured, or which is registered, under Part IV of the Social Work (Scotland) Act 1968 ".

- 19 In section 59(1), after the definition of " relative " there shall be substituted the following definition—

    “' supervision requirement ' has the same meaning as in the Social Work (Scotland) Act 1968”.

*Nurseries and Child-Minders Regulation Act 1948*

- 20 In relation to Scotland, any reference to a local health authority wherever occurring, shall be construed as a reference to a local authority within the meaning of the Social Work (Scotland) Act 1968.

*Criminal Justice Act 1948*

- 21 In section 9, at the end there shall be added the following subsection—



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“(9) A probation order shall not be made under section 3 of this Act as modified by subsection (1) of this section, or amended under subsection (2) of this section in respect of a person who has not attained the age of sixteen.”

*Criminal Justice (Scotland) Act 1949*

22 (1) In section 2, for subsection (2) there shall be substituted the following subsection—

“(2) A probation order shall be in the form prescribed by Act of Adjournal, and shall name the local authority area in which the offender resides or is to reside and the order shall make provision for the offender to be under the supervision of an officer of the local authority of that area, or, where the offender resides or is to reside in a local authority area in which the court has no jurisdiction, the court shall name the appropriate court (being such a court as could have been named in any amendment of the order in accordance with the provisions of Schedule 2 to this Act) in the area of residence or intended residence and the court last mentioned shall require the local authority for that area to arrange for the offender to be under the supervision of an officer of that authority.”

(2) In subsection (4), for the words "the probation officer or officers nominated " there shall be substituted the words " an officer of the local authority ".

(3) In subsection (6), in the proviso, in paragraph (b), for the words from " an approved " where first occurring to " other " there shall be substituted the word " any ".

(4) In subsection (8), for the words from "probation officer" to the end of the subsection there shall be substituted the words " officer of the local authority who is to supervise the probationer, to the probationer, and to the person in charge of any institution or place in which the probationer is required to reside under the probation order ".

23 In section 3, in subsections (4) and (6), for the words " the probation officer or officers " there shall be substituted the words " any officer ".

24 In section 5(1), for the words "the probation officer named in the probation order" there shall be substituted the words " the officer supervising the probationer ".

25 For section 8(1) there shall be substituted the following subsection—

“(1) Any court may, on making a probation order under this Part of this Act, if it thinks that such a course is expedient for the purpose of the order, require the offender to give security for his good behaviour.”.

26 In section 9(1), for the word " seventeen" there shall be substituted the word " sixteen ".

27 In section 10, for the words " a probation officer " there shall be substituted the words " an officer of a local authority ", for the words "other than a juvenile court" there shall be substituted the words " other than a court whose procedure is regulated by rules made under section 52(2) of the Children and Young Persons (Scotland) Act 1937) ", and for the word " seventeen " there shall be substituted the word " sixteen ".

28 (1) In section 28(1), for the paragraphs (a) to (c) there shall be substituted the following paragraphs—

“(a) if he is under 16 years of age the court shall commit him to the local authority in whose area the court is situated, and the authority shall

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have the duty of placing him in a suitable place of safety chosen by the authority ;

- (b) if he is a child of over 16 years of age, or a child under 16 years of age but over fourteen years of age who is certified by the court to be unruly or depraved, and the court has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, he shall be committed to a remand centre;”.

(2) For subsections (3) and (4), there shall be substituted the following subsections—

“(3) Where any person is committed to a local authority or to a remand centre under any provision of this Act that authority or centre shall be specified in the warrant, and he shall be detained by the authority or in the centre for the period for which he is committed or until he is liberated in due course of law.

(4) Where any person has been committed to a local authority under any provision of this Act, the court by which he was committed, if the person so committed is not less than fourteen years of age and it appears to the court that he is unruly or depraved, may revoke the commitment and commit the said person—

- (a) if the court has been notified that a remand centre is available for the reception from that court of persons of his class or description, to a remand centre; and
- (b) if the court has not been so notified, to a prison”.

(3) After subsection (4) there shall be inserted the following subsection—

“(5) Where in the case of a person under sixteen years of age who has been committed to prison or to a remand centre under this section, the sheriff is satisfied that his detention in prison or a remand centre is no longer necessary, he may revoke the commitment and commit the person to the local authority in whose area the court is situated, and the authority shall have the duty of placing him in a suitable place of safety.”

29 In section 30(1), in the subsection substituted thereby for section 9(4) of the Criminal Appeal (Scotland) Act 1926, in paragraph (d) for the words " remand home " and " home " there shall be substituted the words " place of safety ".

30 In section 78(1), after the definition of "large burgh and small burgh ", there shall be added the following definitions—

“' local authority ' has the same meaning as in the Social Work (Scotland) Act 1968 ;

' place of safety' has the same meaning as in the Social Work (Scotland) Act 1968 ;”.

31 (1) In Schedule 2—

- (a) for any reference to a probation officer there shall be substituted a reference to an officer supervising the probationer;
- (b) for any reference to a probation area or a probation committee of a probation area or to the clerk of such a committee, there shall be respectively substituted references to the area of a local authority, a local authority and the director of social work of that area.

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- (2) In paragraph 2(1), for the words from "and which shall" to the end of the sub-paragraph, there shall be substituted the words " and shall require the local authority for that other area to arrange for the probationer to be under the supervision of an officer of that authority. ".
- (3) In paragraph (4)(a), for the words from " the probation officer " to " salaried probation officers " there shall be substituted the words " the local authority named in the order, the local authority ".

#### *Maintenance Orders Act 1950*

- 32 In section 8(1), after the words "the Children Act 1948" there shall be inserted the words " or section 81 of the Social Work (Scotland) Act 1968 ".
- 33 (1) In section 9, in subsection (1), after paragraph (a) there shall be inserted the following paragraph—
  - “(aa) for a contribution order under section 80 of the Social Work (Scotland) Act 1968 (enforcement of duty to make contributions by parents in respect of their children while in the care of a local authority under Part II of that Act or under a supervision requirement);”.
- (2) In subsection (2) after the words " forty-three ", there shall be inserted the words " or the said section 80 ".
- 34 In section 16(2)(b), after sub-paragraph (v) there shall be inserted the following sub-paragraph—
  - “(vi) a contribution order under section 80 of, or a decree or an order made under section 81 of, the Social Work (Scotland) Act 1968 ;”.

#### *Children and Young Persons Act 1956*

- 35 Any reference to the Children and Young Persons (Scotland) Act 1937, however expressed, or to any provision of that Act shall be omitted.

#### *Valuation and Rating (Scotland) Act 1956*

- 36 (1) In section 8(1) in paragraph (b) after the word " authority ", there shall be inserted the words " or to a local authority ".
- (2) For paragraph (c), there shall be substituted the following paragraph—
  - “(c) of any structure belonging to a local authority or voluntary organisation being a local authority or a voluntary organisation within the meaning of the Social Work (Scotland) Act 1968 and supplied in pursuance of arrangements made under the Social Work (Scotland) Act 1968 for the use of any persons who are blind, deaf and dumb or who suffer from mental disorder of any description and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity or such other disabilities as may be prescribed by the Secretary of State under that Act;”.

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*Adoption Act 1958*

- 37 In section 4(3), paragraph (b) shall be omitted, and after paragraph (c) there shall be inserted the following paragraph—
- “(d) section 17 of the Social Work (Scotland) Act 1968 (which makes corresponding provision for Scotland).”.
- 38 In section 15(4), for the words " (which provides " there shall be substituted the following words " or section 16 of the Social Work (Scotland) Act 1968 (which sections provide " .
- 39 In section 36(2)(a), for the words " or section ninety" to " 1937 " there shall be substituted the words " or section 78 of the Social Work (Scotland) Act 1968 " .
- 40 In section 43(3), after the word " 1948 " there shall be inserted the words " or, as the case may be, section 15 of the Social Work (Scotland) Act 1968 and for the words " that section " there shall be substituted the words " the said section 1 or, as the case may be, the said section 15 " .
- 41 In section 57, in the definition of "place of safety", at the end there shall be inserted the following words " and in Scotland has the same meaning as in the Social Work (Scotland) Act 1968 ; " .

*Matrimonial Proceedings (Children) Act 1958*

- 42 In section 10, for subsection (4) there shall be substituted the following subsection—
- “(4) On the making of an order under this section committing the care of a child to a local authority, Part II of the Social Work (Scotland) Act 1968 (which relates to the treatment of children in care of local authorities) shall, subject to the provisions of this section, apply as if the child had been received by the local authority into their care under section 15 of that Act, so however that—
- (a) the exercise by the local authority of their powers under or by virtue of sections 5, 20 to 22, 59 and 60 of that Act shall be subject to any directions given by the court; and
- (b) section 23 of that Act (which relates to arrangements for the emigration of a child under the care of a local authority) shall not apply.”.
- 43 (1) In section 11(1), for the words "for the purpose" to " section " there shall be inserted the words " , not being an officer of the local authority for the purpose, appoint an appropriate local authority " , and at the end of the subsection there shall be inserted the following subsection—
- “(1A) In this section " local authority " has the same meaning as in the Social Work (Scotland) Act 1968”.
- (2) In subsection (5), for the words " designated officer " there shall be substituted the words " local authority or other person appointed " .

*Children Act 1958*

- 44 (1) In section 2(3)(b), for the words from "Part VI" to " 1937 " there shall be substituted the words " in any residential establishment within the meaning of the Social Work (Scotland) Act 1968 " .

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- (2) In subsection (4), after the words " probation order", there shall be inserted the words " or supervision requirement " .
- 45 (1) In section 6(b), after the words " 1937 " there shall be inserted the words " or a supervision requirement has been made under the Social Work (Scotland) Act 1968 "; and after the words " an order", second occurring, there shall be inserted the words " or a requirement " .
- (2) In paragraph (d), after the words " 1948 " there shall be inserted the words " or under section 16 of the Social Work (Scotland) Act 1968 ; " .
- (3) In paragraph (e), after the words " local health authority " there shall be inserted the words " or in Scotland a local authority " .
- 46 In section 7(4), after the words " section 1 of the Children Act 1948 " there shall be inserted the words " or, as the case may be, Part II of the Social Work (Scotland) Act 1968 " .
- 47 (1) In section 17, in the definition of " place of safety ", after the word " child " there shall be inserted the words " and, in Scotland, has the same meaning as in the Social Work (Scotland) Act 1968, " .
- (2) After the definition of " relative " there shall be inserted the following definitions—  
    " residential establishment " has the same meaning as in the Social Work (Scotland) Act 1968 ;  
    " supervision requirement " has the same meaning as in the Social Work (Scotland) Act 1968 ;".

#### *Mental Health Act 1959*

- 48 In section 10(1)(a), after head (iii) there shall be inserted the following head—  
    "or  
        (iv) section 17 of the Social Work (Scotland) Act 1968 (which makes corresponding provision for Scotland)".
- 49 In section 50, after paragraph (c), there shall be inserted the following paragraph—  
    "or  
        (d) section 17 of the Social Work (Scotland) Act 1968 (which makes corresponding provision for Scotland) ", and after the word " three " there shall be inserted the words " or subsection (2) of the said section 17".

#### *Mental Health (Scotland) Act 1960*

- 50 Subject to any specific amendment any reference to a local health authority, wherever occurring except in relation to section 7(1), shall be construed as a reference to a "local authority" within the meaning of the Social Work (Scotland) Act 1968.
- 51 (1) In section 7(1), after the words " shall include ", there shall be inserted the words " the ascertainment of mental deficiency in any person not of school age within the meaning of the Education (Scotland) Act 1962.

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- (1A) In relation to the aforesaid persons the purpose for which arrangements are authorised or required to be made by a local authority under the said section 27(1) as read with section 1(4) of the Social Work (Scotland) Act 1968 shall include the following, that is to say—"; and paragraph (e) shall be omitted".
- (2) In subsection (2) for " (1) " where secondly occurring there shall be substituted the word " (1A) ".
- 52 In section 10(1) in paragraph (a) after head (iii) there shall be inserted the following head—
- “or
- (iv) section 17 of the Social Work (Scotland) Act 1968 ;”.
- 53 In section 30(2), for the words " to the local health authority " there shall be substituted the words " in the case of a guardianship application, to the medical officer of the local authority ".
- 54 In section 46, for paragraph (c), there shall be substituted the following paragraphs—
- “(c) section 17 of the Social Work (Scotland) Act 1968 (which relates to children in respect of whom parental rights have been assumed under section 16 of that Act); and
- (d) section 3 of the Children Act 1948 (which makes corresponding provisions in England and Wales)”;
- and after the words " by virtue of " there shall be inserted the words " subsection (2) of the said section 17 or
- 55 In section 57(3)(b), after the word "child", there shall be inserted the words " under sixteen years of age ".
- 56 In section 59(1) for the word " home " there shall be substituted the words " residential establishment ", and for the words " under Part II of the Children Act 1948 " there shall be substituted the words " under Part IV of the Social Work (Scotland) Act 1968 ".
- 57 In section 66(7), for paragraph (a) there shall be substituted the following paragraph—
- “(a) to a person detained in pursuance of any sentence or order for detention made by a court in criminal proceedings (other than an order under section 63 of this Act, or under subsection (3) of section 3 of the Criminal Appeal (Scotland) Act 1926, or under any enactment to which section 64 of this Act applies);”.
- 58 In section 72(1).—
- for the definition of " guardian " there shall be substituted the following definition—
- “" guardian " in relation to a child has the same mean-as in the Social Work (Scotland) Act 1968”;
- in the definition of " place of safety " for the words " and in relation to a child " to the end there shall be substituted the words—
- “and in relation to a child means a place of safety within the meaning of the Social Work (Scotland) Act 1968”.

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after the definition of " place of safety " there shall be added the following definition—

“" residential establishment " has the same meaning as in the Social Work (Scotland) Act 1968”.

59 In section 111, after the definition of "hospital order" there shall be inserted the following definition—

“" local authority " has the same meaning as in the Social Work (Scotland) Act 1968”.

*Health Visiting and Social Work (Training) Act 1962*

60 In section 3(5), after " 1948 ", insert " or under any re-enactment of any of the provisions of the said Parts of the said Acts of 1947 and 1948 contained in Part II of the Social Work (Scotland) Act 1968. ".

*Education (Scotland) Act 1962*

61 In section 36(3), for the words from "if satisfied" to the end of the subsection there shall be substituted the words " refer the child to the reporter of the appropriate local authority. ".

62 (1) In section 44(1), for the words from "that the child be brought" to the end of the subsection there shall be substituted the words " that the case be referred to the reporter of the appropriate local authority and if so referred, shall certify the said failure as a ground established for the purposes of Part III of the Social Work (Scotland) Act 1968. ".

(2) In subsection (2), for the words from " direct" to " juvenile court" there shall be substituted the words " make a direction ".

63 In section 65(1), (3), (4) and (5), for the words "the local health authority" wherever occurring there shall be substituted the words " the local authority ".

64 In section 66(1), for the words " the local health authority " there shall be substituted the words " the local authority ".

65 In section 85(5)(c), from the beginning to " 1937 " there shall be substituted the words " the persons responsible for the management of an establishment or residential establishment within the meaning of the Social Work (Scotland) Act 1968 and the certificated teachers employed therein in the provision of primary, secondary or further education ".

66 In section 141(2), after paragraph (c), there shall be added the following paragraph—

“(d) any child subject to a supervision requirement requiring him to reside in a residential establishment where education is provided”.

67 In section 145, there shall be inserted the following definitions—

(a) after definition (41) there shall be inserted—

“(41A) " residential establishment" has the same meaning as in the Social Work (Scotland) Act 1968 ;”

(b) in definition (42), for the words from " not include " to the end of the definition there shall be substituted the words " an establishment or

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residential establishment within the meaning of the Social Work (Scotland) Act 1968

(c) after definition (46) there shall be inserted—

“(46A) "supervision requirement" has the same meaning as in the Social Work (Scotland) Act 1968 ;”

*Children and Young Persons Act 1963*

68 In section 55, the words from " section 88(5)" to " Scottish Act" shall be omitted and after " 1948 " there shall be inserted the words " or section 23 of the Social Work (Scotland) Act 1968 ".

69 (1) In section 57(2), any reference to a juvenile court shall, in relation to Scotland, be construed as a reference to the sheriff sitting summarily in respect of an offence by a child.

(2) In section 57(3), in paragraph (a), for the words from " a juvenile court", second occurring, to " that Act" there shall be substituted the words " a sheriff court where that court is sitting in any summary proceedings in respect of an offence by a child. "

*Criminal Justice (Scotland) Act 1963*

70 In section 1(4), for the word " seventeen " there shall be substituted the word " sixteen ".

71 In section 7(1), for the word "fourteen" there shall be substituted the word " sixteen ".

72 In section 29, for the words " approved school " there shall be substituted the words " detained in any place under an order made by virtue of section 57 or 58A of the Children and Young Persons (Scotland) Act 1937 ".

*Registration of Births, Deaths and Marriages (Scotland) Act 1965*

73 (1) In section 15, in subsections (1) and (3), for the words "children's officer" there shall be substituted the words " director of social work ".

(2) In subsection (4), for the words " Children and Young Persons (Scotland) Act 1937 " there shall be substituted the words " Social Work (Scotland) Act 1968 ".

*Family Allowances Act 1965*

74 (1) In section 11(1), in paragraph (a) after the word " authorised", there shall be inserted the words " or, as the case may be, his or her residence in a residential establishment is required ", after paragraph (a)(ii) there shall be inserted the following head—

“or

(iii) by a supervision requirement made under section 44 of the Social Work (Scotland) Act 1968;”,

and after the words " the school", there shall be inserted the words " or, as the case may be, the residential establishment ", , and in paragraph (b), for the words " the said Act of 1937 " there shall be substituted the words " the Children and Young Persons (Scotland) Act 1937 " and after paragraph (b) there shall be inserted the following paragraph—



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- “(bb) during which the child is liable to undergo residential training under committal by virtue of section 58A of the said Act of 1937 and is not released under that section;”,
- and after paragraph (c) there shall be added the following paragraph—
- “(cc) during which the child is accommodated by virtue of rules made by the Secretary of State under section 45 of the Social Work (Scotland) Act 1968”.
- (2) In subsection (3), after the words " 1948 " there shall be inserted the words " or, under section 16(1) of the Social Work (Scotland) Act 1968 ", and in the proviso thereto, after the words " 1948 " there shall be inserted the words " or of sections 17 or 18 of the said Act of 1968 ".
- (3) After subsection (6) there shall be added the following subsection—
- “(7) In subsection (1) of this section as amended by the Social Work (Scotland) Act 1968 the expressions 'residential establishment' and ' supervision requirement' have the meanings assigned to them by section 94 of that Act.”.

## SCHEDULE 9

Section 95(2).

### ENACTMENTS REPEALED

#### PART I

##### *Repeals Extending to Scotland Only*

| Session and Chapter                             | Short Title   | Extent of Repeal  |
|---|---|---|
| <a href="#">1 Edw. 8 &amp; 1 Geo. 6. c. 37.</a> | The Children and Young Persons (Scotland) Act 1937. | <p>In section 21(2), the words from " may take " to the end of the subsection.</p> <p>In section 42(1), the words " or is for any other reason brought before a court" and in subsection (2), the words " or taken to a place of safety " and the words " or the person by whom he is taken to the place of safety, as the case may be ".</p> <p>In section 47(1) the words " until he can be brought before a juvenile court", wherever occurring.</p> <p>In section 49(1), the words " either as being in need of care or protection or", the</p> |

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| Session and Chapter | Short Title | Extent of Repeal   |
|---------------------|-------------|--|
|                     |             | <p>words " or otherwise ", and the words " and for securing that proper provision is made for his education and training ".</p> <p>Section 49(2).</p> <p>Section 51.</p> <p>Section 53(2) and (3).</p> <p>Section 59(1) and in subsection (4), the words "under this section, or ".</p> <p>Sections 60 and 61.</p> <p>In section 63(3) the words "under the Probation of Offenders Act 1907 ".</p> <p>Sections 65 and 66.</p> <p>Sections 68 to 86.</p> <p>Sections 88 to 98.</p> <p>Section 101(5) and (6).</p> <p>Section 106.</p> <p>Section 107(1)(a). and (2).</p> <p>Section 109.</p> <p>In section 110(1)—<br/> the following<br/> definitions—</p> <p style="padding-left: 40px;">" Approved school<br/> ",<br/> " Approved school order "<br/> " Headmaster "<br/> " In need of care or protection "<br/> in the definition of " Justice " the words " (except in section 51 of this Act) "<br/> and the definition of " Managers ".</p> <p>In section 110, in subsection (3)(a)(ii) the words " and the juvenile court for any area " and subsection (3)(a)(iv).</p> |

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| Session and Chapter                                  | Short Title   | Extent of Repeal  |
|--|---|---|
| 11 & 12 Geo. 6. c. 29.                               | The National Assistance Act 1948.                                   | Section 111.<br>Section 112.<br>Schedule 2<br>Schedule 3.<br>Section 21.<br>Section 22(1).<br>Sections 23 and 24.<br>Section 26(1) and (5).<br>Section 27.<br>Sections 29 and 30.<br>Section 32.<br>Sections 34 to 40.<br>Section 50(3).<br>Section 58(1) and (4).  |
| 11 & 12 Geo. 6. c. 43.<br>12, 13 & 14 Geo. 6. c. 94. | The Children Act 1948.<br>The Criminal Justice (Scotland) Act 1949. | The whole Act.<br>Section 2(3) and (9).<br>Section 4(2) and (3).<br>Section 5(3).<br>In section 7, in subsection (2), the words from " to omit" to " and", and in subsection (4), the words " to (3)".<br>Sections 11 to 13.<br>In section 28, subsection (2), and in subsection (3), the words " a remand home or " and the words "home or".<br>Sections 50 and 51.<br>Sections 69 to 73.<br>In section 75, subsections (1) (a), (3)(a) to (d) and (4) to (6).<br>In section 78, in subsection (1)—<br>in the definition of " appropriate court"<br>" the words " or supervision"; and the |

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| Session and Chapter | Short Title                      | Extent of Repeal  |
|---------------------|----------------------------------|---|
| 14 Geo. 6. c. 37.   | The Maintenance Orders Act 1950. | <p>words " or person under supervision ";<br/> and the following definitions—<br/> " Approved probation hostel<br/> " and " Approved probation home ";<br/> " Approved school ";<br/> " Remand home ";<br/> " Salaried probation officer ";<br/> in the definition of " sentence ", the words from " an order for custody " to the end of the definition;<br/> the following definitions—<br/> " Supervision order ";<br/> " Voluntary probation officer ";<br/> " Whole-time probation officer "; and<br/> " Young person ".</p> <p>Schedule 1.</p> <p>In Schedule 2, in paragraph 2, in sub-paragraph (3), the words " appointed by the appropriate court," in sub-paragraph (4)(b), the words " named therein ", in paragraph 3(b) the words "an approved probation hostel or home or in " and the word " other " and paragraph 7.</p> <p>Schedule 3.</p> <p>Schedule 1, so far as relating to the modification of the Children and Young Persons (Scotland) Act 1937.</p> |

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| Session and Chapter                 | Short Title  | Extent of Repeal  |
|-------------------------------------|--|---|
| 15 & 16 Geo. 6. & 1 Eliz. 2. c. 61. | The Prisons (Scotland) Act 1952.                               | Section 18(1) to (3A).<br>In section 32, in subsection (3), the words "who is not less than seventeen years of age ", and subsection (4).   |
| 4 & 5 Eliz. 2. c. 24.               | The Children and Young Persons Act 1956.                       | The whole Act.  |
| 4 & 5 Eliz. 2. c. 50.               | The Family Allowances and National Insurance Act 1956.         | The whole Act.  |
| 5 & 6 Eliz. 2. c. 1.                | The Police, Fire and Probation Officers Remuneration Act 1956. | In section 1(1)(d), the words from " or " to " 1949 ".  |
| 6 & 7 Eliz. 2. c. 40.               | The Matrimonial Proceedings (Children) Act 1958.               | Section 11(2) and (3).<br>In section 12(1), the words of a probation officer or ", and section 12(3).   |
| 6 & 7 Eliz. 2. c. 65.               | The Children Act 1958.   | Section 1.<br>Section 2(6) and (7).   |
| 7 & 8 Eliz. 2. c. 5.                | The Adoption Act 1958.   | Section 4(3)(b).<br>In section 11(1), the words " or juvenile court".<br>In section 15(3), the words from " or the Children " to " 1937 ".<br>In section 37(3), the words " in an approved school or ".   |
| 8 & 9 Eliz. 2. c. 61.               | The Mental Health (Scotland) Act 1960.                         | Sections 8 and 9.<br>In section 10, in subsection (1), in paragraph (a), head (i), and at the end of head (ii) the word " or ".<br>Section 12(2).<br>Sections 19 to 21.<br>Section 46(a).<br>In section 55(10), the words from " including" to the word " school".<br>Section 56. |

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

| Session and Chapter     | Short Title                                     | Extent of Repeal   |
|-------------------------|---|--|
| 10 & 11 Eliz. 2. c. 47. | The Education (Scotland) Act 1962.              | <p>In section 57, in subsection (3)(b), the words " or young person"; and subsection (5).</p> <p>Section 69(1)(b).</p> <p>Section 71.</p> <p>In section 72, the definitions of " approved school" and " remand home " and in the definition of " place of safety " the words " or young person " first occurring.</p> <p>In section 111(1), the definition of " residential home for persons suffering from mental disorder;".</p> <p>Section 36(4) and (5).</p> <p>Section 44(3) and (4).</p> <p>Section 80(1)(e).</p> <p>In section 104 the words " (including an approved school)".</p> |
| 1963 c. 37.             | The Children and Young Persons Act 1963.        | <p>Section 1.</p> <p>Sections 45 to 52.</p> <p>Section 58.</p>   |
| 1963 c. 39.             | The Criminal Justice (Scotland) Act 1963.       | <p>In section 11, in subsection (2), the words from " if the offender " to the words " detention centre", and subsections (3) and (5).</p> <p>Section 15.</p> <p>Part II.</p> <p>Schedule 2.</p>   |
| 1968 c. 46.             | The Health Services and Public Health Act 1968. | <p>Section 13.</p> <p>Section 44.</p> <p>Section 45.</p>   |

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

## PART II

### *Repeals Extending to England and Wales*

| Session and Chapter    | Short Title                              | Extent of Repeal   |
|------------------------|--|--|
| 23 & 24 Geo. 5. c. 12. | The Children and Young Persons Act 1933. | <p>In section 78(2) and (4), the words from " (including " to " 1937) ".</p> <p>In section 82(1), the words from " or " to " 1937 ", and in the proviso, the words from " or where " to " Wales ".</p> <p>In section 83(1), (2) and (4), the words " Scotland or" wherever occurring, and in subsection (5) the words from " in relation to Scotland " to " Department, and ".</p> <p>In section 85(1) and (2), the words " or under the Children and Young Persons (Scotland) Act 1937 ".</p> <p>In Schedule 4, in paragraph 9, in sub-paragraph (1), the words from " or with the consent" to " to that Act", paragraph 9(3), and in paragraph 13, the words " or of the Children and Young Persons (Scotland) Act 1937 " in both places where they occur.</p> |
| 6 & 7 Eliz. 2. c. 65.  | The Children Act 1958.                   | <p>In section 2(4), the words from "or of" to " 1937".</p> <p>In section 17, in the definition of "fit person order", the words " or" to " 1937 ".</p>   |
| 7 & 8 Eliz. 2. c. 72.  | The Mental Health Act 1959.              | <p>In section 10(1), in sub-paragraph (a), head (ii).</p> <p>In section 50, sub-paragraph (b).</p>   |
| 1963 c. 37.            | The Children and Young Persons Act 1963. | <p>In section 12, the words " Scotland or ".</p> <p>In section 45(1), the words " the Children and Young</p>   |

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| Session and Chapter | Short Title                     | Extent of Repeal   |
|---------------------|---------------------------------|--|
| 1965 c. 53.         | The Family Allowances Act 1965. | Persons (Scotland) Acts 1937 and 1956 ".<br>Sections 51 and 52.<br>Section 53(1)(b).<br>In section 11, subsection (1) (a)(ii), in subsection (1) (c), the words " or an order under section 73(2) of the said Act of 1937 ", and in subsection (2), the words " or the said Act of 1937 ". |