



# Children and Young Persons Act 1969

## 1969 CHAPTER 54

### PART I

#### CARE AND OTHER TREATMENT OF JUVENILES THROUGH COURT PROCEEDINGS

##### *Care of children and young persons through juvenile courts*

#### **1 Care proceedings in juvenile courts**

- (1) Any local authority, constable or authorised person who reasonably believes that there are grounds for making an order under this section in respect of a child or young person may, subject to section 2(3) and (8) of this Act, bring him before a juvenile court.
- (2) If the court before which a child or young person is brought under this section is of opinion that any of the following conditions is satisfied with respect to him, that is to say—
  - (a) his proper development is being avoidably prevented or neglected or his health is being avoidably impaired or neglected or he is being ill-treated ; or
  - (b) it is probable that the condition set out in the preceding paragraph will be satisfied in his case, having regard to the fact that the court or another court has found that that condition is or was satisfied in the case of another child or young person who is or was a member of the household to which he belongs; or
  - (c) he is exposed to moral danger; or
  - (d) he is beyond the control of his parent or guardian; or
  - (e) he is of compulsory school age within the meaning of the Education Act 1944 and is not receiving efficient full-time education suitable to his age, ability and aptitude; or
  - (f) he is guilty of an offence, excluding homicide,

and also that he is in need of care or control which he is unlikely to receive unless the court makes an order under this section in respect of him, then, subject to the following provisions of this section and sections 2 and 3 of this Act, the court may if it thinks fit make such an order.

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- (3) The order which a court may make under this section in respect of a child or young person is—
- (a) an order requiring his parent or guardian to enter into a recognisance to take proper care of him and exercise proper control over him ; or
  - (b) a supervision order ; or
  - (c) a care order (other than an interim order); or
  - (d) a hospital order within the meaning of Part V of the Mental Health Act 1959 ; or
  - (e) a guardianship order within the meaning of that Act.
- (4) In any proceedings under this section the court may make orders in pursuance of paragraphs (c) and (d) of the preceding subsection but subject to that shall not make more than one of the orders mentioned in the preceding subsection, without prejudice to any power to make a further order in subsequent proceedings of any description; and if in proceedings under this section the court makes one of those orders and an order so mentioned is already in force in respect of the child or young person in question, the court may discharge the earlier order unless it is a hospital or guardianship order.
- (5) An order under this section shall not be made in respect of a child or young person—
- (a) in pursuance of paragraph (a) of subsection (3) of this section unless the parent or guardian in question consents;
  - (b) in pursuance of paragraph (d) or (e) of that subsection unless the conditions which, under section 60 of the said Act of 1959, are required to be satisfied for the making of a hospital or guardianship order in respect of a person convicted as mentioned in that section are satisfied in his case so far as they are applicable;
  - (c) if he has attained the age of sixteen and is or has been married.
- (6) In this section " authorised person " means a person authorised by order of the Secretary of State to bring proceedings in pursuance of this section and any officer of a society which is so authorised, and in sections 2 and 3 of this Act " care proceedings " means proceedings in pursuance of this section and " relevant infant " means the child or young person in respect of whom such proceedings are brought or proposed to be brought.

## **2 Provisions supplementary to s. 1**

- (1) If a local authority receive information suggesting that there are grounds for bringing care proceedings in respect of a child or young person who resides or is found in their area, it shall be the duty of the authority to cause enquiries to be made into the case unless they are satisfied that such enquiries are unnecessary.
- (2) If it appears to a local authority that there are grounds for bringing care proceedings in respect of a child or young person who resides or is found in their area, it shall be the duty of the authority to exercise their power under the preceding section to bring care proceedings in respect of him unless they are satisfied that it is neither in his interest nor the public interest to do so or that some other person is about to do so or to charge him with an offence.
- (3) No care proceedings shall be begun by any person unless that person has given notice of the proceedings to the local authority for the area in which it appears to him that the relevant infant resides or, if it appears to him that the relevant infant does not reside

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in the area of a local authority, to the local authority for any area in which it appears to him that any circumstances giving rise to the proceedings arose; but the preceding provisions of this subsection shall not apply where the person by whom the notice would fall to be given is the local authority in question.

- (4) Without prejudice to any power to issue a summons or warrant apart from this subsection, a justice may issue a summons or warrant for the purpose of securing the attendance of the relevant infant before the court in which care proceedings are brought or proposed to be brought in respect of him; but subsections (3) and (4) of section 47 of the Magistrates' Courts Act 1952 (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under this subsection as they apply to a warrant under that section and as if in subsection (3) after the word " summons " there were inserted the words " cannot be served or ".
- (5) Where the relevant infant is arrested in pursuance of a warrant issued by virtue of the preceding subsection and cannot be brought immediately before the court aforesaid, the person in whose custody he is—
- (a) may make arrangements for his detention in a place of safety for a period of not more than seventy-two hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements) ; and
  - (b) shall within that period, unless within it the relevant infant is brought before the court aforesaid, bring him before a justice;
- and the justice shall either make an interim order in respect of him or direct that he be released forthwith.
- (6) Section 77 of the Magistrates' Courts Act 1952 (under which a summons or warrant may be issued to secure the attendance of a witness) shall apply to care proceedings as it applies to the hearing of a complaint.
- (7) In determining whether the condition set out in subsection (2)(b) of the preceding section is satisfied in respect of the relevant infant, it shall be assumed that no order under that section is to be made in respect of him.
- (8) In relation to the condition set out in subsection (2)(e) of the preceding section the references to a local authority in that section and subsections (1), (2) and (11)(b) of this section shall be construed as references to a local education authority; and in any care proceedings—
- (a) the court shall not entertain an allegation that that condition is satisfied unless the proceedings are brought by a local education authority ; and
  - (b) the said condition shall be deemed to be satisfied if the relevant infant is of the age mentioned in that condition and it is proved that he—
    - (i) is the subject of a school attendance order which is in force under section 37 of the Education Act 1944 and has not been complied with, or
    - (ii) is a registered pupil at a school which he is not attending regularly within the meaning of section 39 of that Act, or
    - (iii) is a person whom another person habitually wandering from place to place takes with him, unless it is also proved that he is receiving the education mentioned in that condition;but nothing in paragraph (a) of this subsection shall prevent any evidence from being considered in care proceedings for any purpose other than that of determining whether that condition is satisfied in respect of the relevant infant.

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- (9) If on application under this subsection to the court in which it is proposed to bring care proceedings in respect of a relevant infant who is not present before the court it appears to the court that he is under the age of five and either—
- (a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed by rules under section 15 of the Justices of the Peace Act 1949, that notice of the proposal to bring the proceedings at the time and place at which the application is made was served on the parent or guardian of the relevant infant at what appears to the court to be a reasonable time before the making of the application; or
  - (b) it appears to the court that his parent or guardian is present before the court the court may if it thinks fit, after giving the parent or guardian if he is present an opportunity to be heard, give a direction under this subsection in respect of the relevant infant; and a relevant infant in respect of whom such a direction is given by a court shall be deemed to have been brought before the court under section 1 of this Act at the time of the direction, and care proceedings in respect of him may be continued accordingly.
- (10) If the court before which the relevant infant is brought in care proceedings is not in a position to decide what order, if any, ought to be made under the preceding section in respect of him, the court may make an interim order in respect of him.
- (11) If it appears to the court before which the relevant infant is brought in care proceedings that he resides in a petty sessions area other than that for which the court acts, the court shall, unless it dismisses the case and subject to subsection (5) of the following section, direct that he be brought under the preceding section before a juvenile court acting for the petty sessions area in which he resides; and where the court so directs—
- (a) it may make an interim order in respect of him and, if it does so, shall cause the clerk of the court to which the direction relates to be informed of the case ;
  - (b) if the court does not make such an order it shall cause the local authority in whose area it appears to the court that the relevant infant resides to be informed of the case, and it shall be the duty of that authority to give effect to the direction within twenty-one days.
- (12) The relevant infant may appeal to quarter sessions against any order made in respect of him under the preceding section except such an order as is mentioned in subsection (3) (a) of that section.
- (13) Such an order as is mentioned in subsection (3)(a) of the preceding section shall not require the parent or guardian in question to enter into a recognisance for an amount exceeding fifty pounds or for a period exceeding three years or, where the relevant infant will attain the age of eighteen in a period shorter than three years, for a period exceeding that shorter period; and section 96 of the Magistrates' Courts Act 1952 (which relates to the forfeiture of recognisances) shall apply to a recognisance entered into in pursuance of such an order as it applies to a recognisance to keep the peace.
- (14) For the purposes of this Act, care proceedings in respect of a relevant infant are begun when he is first brought before a juvenile court in pursuance of the preceding section in connection with the matter to which the proceedings relate.

### **3 Further supplementary provisions relating to s. 1(2)(f)**

- (1) In any care proceedings, no account shall be taken for the purposes of the condition set out in paragraph (f) of subsection (2) of section 1 of this Act (hereafter in this section

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referred to as " the offence condition ") of an offence alleged to have been committed by the relevant infant if—

- (a) in any previous care proceedings in respect of him it was alleged that the offence condition was satisfied in consequence of the offence ; or
  - (b) the offence is a summary offence within the meaning of the Magistrates' Courts Act 1952 and, disregarding section 4 of this Act, the period for beginning summary proceedings in respect of it expired before the care proceedings were begun ; or
  - (c) disregarding section 4 of this Act, he would if charged with the offence be entitled to be discharged under any rule of law relating to previous acquittal or conviction.
- (2) In any care proceedings the court shall not entertain an allegation that the offence condition is satisfied in respect of the relevant infant unless the proceedings are brought by a local authority or a constable; but nothing in this or the preceding subsection shall prevent any evidence from being considered in care proceedings for any purpose other than that of determining whether the offence condition is satisfied in respect of the relevant infant.
- (3) If in any care proceedings the relevant infant is alleged to have committed an offence in consequence of which the offence condition is satisfied with respect to him, the court shall not find the offence condition satisfied in consequence of the offence unless, disregarding section 4 of this Act, it would have found him guilty of the offence if the proceedings had been in pursuance of an information duly charging him with the offence and the court had had jurisdiction to try the information; and without prejudice to the preceding provisions of this subsection the same proof shall be required to substantiate or refute an allegation that the offence condition is satisfied in consequence of an offence as is required to warrant a finding of guilty, or as the case may be, of not guilty of the offence.
- (4) A person shall not be charged with an offence if in care proceedings previously brought in respect of him it was alleged that the offence condition was satisfied in consequence of that offence.
- (5) If in any care proceedings in which it is alleged that the offence condition is satisfied in respect of the relevant infant it appears to the court that the case falls to be remitted to another court in pursuance of subsection (11) of the preceding section but that it is appropriate to determine whether the condition is satisfied before remitting the case, the court may determine accordingly; and any determination under this subsection shall be binding on the court to which the case is remitted.
- (6) Where in any care proceedings the court finds the offence condition satisfied with respect to the relevant infant in consequence of an indictable offence within the meaning of the Magistrates' Courts Act 1952 then, whether or not the court makes an order under section 1 of this Act—
- (a) section 34 of that Act (which relates to compensation for loss of property or damage to it) shall apply as if the finding were a finding of guilty of the offence and as if the maximum amount of an award under that section were one hundred pounds; and
  - (b) the court shall if the relevant infant is a child, and may if he is not, order any sum awarded by virtue of this subsection to be paid by his parent or guardian instead of by him unless it is satisfied that the parent or guardian cannot be found or has not conduced to the commission of the offence by neglecting to exercise due care or control of him, so however that an order shall not be made

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in pursuance of this paragraph unless the parent or guardian has been given an opportunity of being heard or has been required to attend the proceedings and failed to do so; and

- (c) any sum payable by a parent or guardian by virtue of the preceding paragraph may be recovered from him in like manner as if he had been convicted of the offence in question;

but where the finding in question is made in pursuance of the preceding subsection, the powers conferred by this subsection shall be exercisable by the court to which the case is remitted instead of by the court which made the finding.

For the purposes of this subsection an offence under section 14(1) of the Criminal Justice Administration Act 1914 (which provides for damage committed wilfully or maliciously to be punishable on summary conviction) shall be treated as an indictable offence within the meaning of the said Act of 1952.

- (7) Where in any care proceedings the court finds the offence condition satisfied with respect to the relevant infant and he is a young person, the court may if it thinks fit and he consents, instead of making such an order as is mentioned in section 1(3) of this Act, order him to enter into a recognisance for an amount not exceeding twenty-five pounds and for a period not exceeding one year to keep the peace or to be of good behaviour; and such an order shall be deemed to be an order under section 1 of this Act but no appeal to quarter sessions may be brought against an order under this subsection.
- (8) Where in any care proceedings the court finds the offence condition satisfied with respect to the relevant infant in consequence of an offence which was not admitted by him before the court, then—
  - (a) if the finding is made in pursuance of subsection (5) of this section and the court to which the case is remitted decides not to make any order under section 1 of this Act in respect of the relevant infant; or
  - (b) if the finding is not made in pursuance of that subsection and the court decides as aforesaid,

the relevant infant may appeal to quarter sessions against the finding, and in a case falling within paragraph (a) of this subsection any notice of appeal shall be given within fourteen days after the date of the decision mentioned in that paragraph; and a person ordered to pay compensation by virtue of subsection (6) of this section may appeal to quarter sessions against the order.

- (9) An appeal in pursuance of the preceding subsection or subsection (12) of the preceding section against an order made by a court in consequence of a finding made by another court by virtue of subsection (5) of this section shall lie to the same quarter sessions as would have had jurisdiction to entertain an appeal under subsection (8) of this section against the finding if the court had decided not to make any order.