



# Children and Young Persons Act 1969

## 1969 CHAPTER 54

### PART II

#### ACCOMMODATION ETC. FOR CHILDREN IN CARE, AND FOSTER CHILDREN

##### *Community homes*

#### **35 Regional planning of accommodation for children in care**

- (1) With a view to the preparation, in pursuance of the provisions of this Part of this Act, of regional plans for the provision of accommodation for children in the care of local authorities and for the equipment and maintenance of the accommodation, the Secretary of State may by order provide that any area specified in the order shall be a separate area (in this Act referred to as a " planning area ") for the purposes of those provisions.
- (2) Before making an order under subsection (1) of this section, the Secretary of State shall consult each local authority whose area or any part of whose area is included in the planning area which he proposes should be specified in the order and such other local authorities, if any, as he thinks fit.
- (3) It shall be the duty of the local authorities whose areas are wholly or partly included in a planning area (in this Act referred to, in relation to such an area, as " the relevant authorities ") to establish for the area, within such period as may be provided by the order specifying the planning area or such longer period as the Secretary of State may allow, a body to be called the children's regional planning committee.
- (4) The provisions of Schedule 2 to this Act shall have effect in relation to children's regional planning committees.
- (5) In the case of an order under subsection (1) of this section which (by virtue of section 69(3) of this Act) varies or revokes a previous order under that subsection—
  - (a) the reference in subsection (2) of this section to the planning area which the Secretary of State proposes should be specified in the order shall be construed

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- as a reference to the planning area as it would be if the variation were made or, as the case may be, to the planning area as it is before the revocation; and
- (b) the order may contain such transitional provisions (including provisions as to the expenses and membership of any existing or former children's regional planning committee for a planning area) as the Secretary of State thinks fit.

### **36 Regional plans for community homes**

- (1) The children's regional planning committee for a planning area (in this and the following section referred to as " the committee ") shall prepare and submit to the Secretary of State, in accordance with the following provisions of this section, a plan (in this Act referred to as a " regional plan ") for the provision and maintenance of homes, to be known as community homes, for the accommodation and maintenance of children in the care of the relevant authorities.
- (2) The community homes for which provision may be made by a regional plan shall be—
  - (a) community homes provided by the relevant authorities ; and
  - (b) voluntary homes provided by voluntary organisations but in the management of each of which the plan proposes that a relevant authority should participate in accordance with an instrument of management.
- (3) Where a regional plan makes provision for any such voluntary home as is referred to in paragraph (b) of subsection (2) of this section, the plan shall designate the home as either a controlled community home or an assisted community home, according as it is proposed in the plan that the management, equipment and maintenance of the home should be the responsibility of one of the relevant authorities or of the voluntary organisation by which the home is provided.
- (4) Every regional plan shall contain proposals—
  - (a) with regard to the nature and purpose of each of the community homes for which the plan makes provision ; and
  - (b) for the provision of facilities for the observation of the physical and mental condition of children in the care of the relevant authorities and for the assessment of the most suitable accommodation and treatment for those children.
- (5) Before including provision in a regional plan that a community home should be provided by any of the relevant authorities or that a voluntary home provided by a voluntary organisation should be designated as a controlled or assisted community home, the committee shall obtain the consent of the authority or voluntary organisation by which the home is or is to be provided and, in the case of a home which is to be designated as a controlled or assisted community home, the consent of the local authority which it is proposed should be specified in the instrument of management for the home.
- (6) A regional plan shall be prepared in such form and shall contain such information as the Secretary of State may direct, either generally or in relation to a particular planning area or particular kinds of plans; and the Secretary of State may direct that the regional plan for a particular planning area shall be submitted to him within such period as may be specified in the direction or such longer period as he may allow.

### **37 Approval and variation of regional plans**

- (1) After considering any regional plan submitted to him under section 36 of this Act and after making in the plan such modifications (if any) as he may agree with the committee by which the plan was submitted and as he may consider appropriate for securing that the plan makes proper provision for the accommodation and maintenance of children in the care of the relevant authorities, the Secretary of State may approve the plan.
- (2) Where the Secretary of State considers that, either with or without such modifications as are referred to in subsection (1) of this section, part but not the whole of a plan submitted to him under section 36 of this Act makes proper provision for the accommodation and maintenance of the children to whom that part of the plan relates, the Secretary of State may approve that part of the plan.
- (3) Where the Secretary of State has approved part only of a regional plan, the committee for the planning area concerned shall prepare and submit to him under section 36 of this Act a further regional plan containing proposals to supplement that part of the previous plan which was approved by the Secretary of State.
- (4) If, at any time after the approval of the whole or part of a regional plan by the Secretary of State, the committee for the planning area concerned consider that the plan, or such part of it as was approved, should be varied or replaced, they shall prepare and submit to the Secretary of State under section 36 of this Act a further regional plan for that purpose; and any such further regional plan may—
  - (a) take the form of a replacement for the regional plan or part thereof which was previously approved by the Secretary of State ; or
  - (b) contain proposals for the amendment of that regional plan or part thereof.
- (5) In relation to a further regional plan which contains proposals for supplementing or amending a regional plan or part of a regional plan which has been previously approved by the Secretary of State (in this subsection referred to as " the approved plan ")—
  - (a) section 36(4) of this Act shall have effect as if references to a regional plan were references to the approved plan as it would have effect if supplemented or amended in accordance with the proposals contained in the further regional plan; and
  - (b) subsection (1) of this section shall have effect as if the reference therein to children in the care of the relevant authorities were a reference to the children to whom the proposals in the plan relate; and
  - (c) in so far as the further regional plan contains proposals under which a home would cease to be a community home, or would become a community home of a different description, or would be used for a purpose different from that provided for in the approved plan, the committee preparing the further plan shall, before submitting it to the Secretary of State, obtain the consent of the local authority or voluntary organisation by which the home is provided and, if the proposal is for a home to become or to cease to be a controlled or assisted community home, the consent of the local authority which it is proposed should be, or which is, specified in the instrument of management for the home,
- (6) Where the Secretary of State approves a regional plan, in whole or in part, he shall give notice in writing of his approval to the committee for the planning area concerned specifying the date on which the plan is to come into operation, and the committee

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shall send a copy of the notice to each of the relevant authorities and to any voluntary organisation whose consent was required to any provision of the plan.

### **38 Provision of community homes by local authorities**

Where a regional plan for a planning area includes provision for a community home to be provided by one of the relevant authorities, it shall be the duty of the local authority concerned to provide, manage, equip and maintain that home.

### **39 Instruments of management for assisted and controlled community homes**

- (1) The Secretary of State may by order make an instrument of management providing for the constitution of a body of managers for any voluntary home which, in accordance with a regional plan approved by him, is designated as a controlled or assisted community home.
- (2) Where in accordance with a regional plan approved by the Secretary of State, two or more voluntary homes are designated as controlled community homes or as assisted community homes, then if—
  - (a) those homes are, or are to be, provided by the same voluntary organisation; and
  - (b) the same local authority is to be represented on the body of managers for those homes,a single instrument of management may be made by the Secretary of State under this section constituting one body of managers for those homes or for any two or more of them.
- (3) The number of persons who, in accordance with an instrument of management under this section, constitute the body of managers for a voluntary home shall be such number, being a multiple of three, as may be specified in the instrument of management, but the instrument shall provide that a proportion of the managers shall be appointed by such local authority as may be so specified and—
  - (a) in the case of a voluntary home which is designated in a regional plan as a controlled community home, the proportion shall be two-thirds ; and
  - (b) in the case of a voluntary home which is so designated as an assisted community home, the proportion shall be one-third.
- (4) An instrument of management shall provide that the " foundation managers ", that is to say, those of the managers of the voluntary home to which the instrument relates who are not appointed by a local authority in accordance with subsection (3) of this section, shall be appointed, in such manner and by such persons as may be specified in the instrument.—
  - (a) so as to represent the interests of the voluntary organisation by which the home is, or is to be, provided ; and
  - (b) for the purpose of securing that, as far as practicable, the character of the home as a voluntary home will be preserved and that, subject to section 40(3) of this Act, the terms of any trust deed relating to the home are observed.
- (5) An instrument of management under this section shall come into force on such date as may be specified in the instrument, and if such an instrument is in force in relation to a voluntary home the home shall be and be known as a controlled community home or an assisted community home, according to its designation in the regional plan.

#### **40 Supplementary provisions as to instruments of management and trust deeds**

- (1) An instrument of management for a controlled or assisted community home shall contain such provisions as the Secretary of State considers appropriate for giving effect to the provisions of the regional plan by which the home is designated as a controlled or assisted community home, but nothing in the instrument of management for such a home shall affect the purposes for which the premises comprising the home are held.
- (2) Without prejudice to the generality of subsection (1) of this section, an instrument of management may contain—
  - (a) provisions specifying the nature and purpose of the home or each of the homes to which it relates ;
  - (b) provisions requiring a specified number or proportion of the places in that home or those homes to be made available to local authorities and to any other body specified in the instrument; and
  - (c) provisions relating to the management of that home or those homes and the charging of fees in respect of children placed therein or places made available to any local authority or other body.
- (3) Subject to subsection (1) of this section, in the event of any inconsistency between the provisions of any trust deed and the instrument of management relating to a controlled or assisted community home, the instrument of management shall prevail over the provisions of the trust deed in so far as they relate to that home.
- (4) After consultation with the voluntary organisation by which a controlled or assisted community home is provided and with the local authority specified in the instrument of management for the time being in force for that home, the Secretary of State may vary or revoke any provisions of that instrument of management by a further instrument of management.
- (5) In this Act the expression " trust deed ", in relation to a voluntary home, means any instrument (other than an instrument of management) regulating the maintenance, management or conduct of the home or the constitution of a body of managers or trustees of the home.

#### **41 Management of controlled community homes**

- (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local authority specified in the instrument of management for that home, and in the following provisions of this section " the responsible authority ", in relation to such a home, means the local authority responsible for its management, equipment and maintenance.
- (2) Subject to the following provisions of this section, the responsible authority shall exercise their functions in relation to a controlled community home through the body of managers constituted by the instrument of management for the home, and any thing done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible authority.
- (3) In so far as any matter is reserved for the decision of the responsible authority, either by subsection (4) of this section or by the instrument of management for the controlled community home in question or by the service by the responsible authority on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible authority themselves and not by the managers, but in

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dealing with any matter so reserved, the responsible authority shall have regard to any representations made to them by the managers.

- (4) The employment of persons at a controlled community home shall be a matter reserved for the decision of the responsible authority, but where the instrument of management so provides the responsible authority may enter into arrangements with the voluntary organisation by which the home is provided whereby, in accordance with such terms as may be agreed between the responsible authority and the voluntary organisation, persons who are not in the employment of the responsible authority shall undertake duties at the home.
- (5) The accounting year of the managers of a controlled community home shall be such as may be specified by the responsible authority and, before such date in each accounting year as may be so specified, the managers of a controlled community home shall submit to the responsible authority estimates, in such form as the authority may require, of expenditure and receipts in respect of the next accounting year; and any expenses incurred by the managers of a controlled community home with the approval of the responsible authority shall be defrayed by that authority.
- (6) The managers of a controlled community home shall keep proper accounts in respect of that home and proper records in relation to the accounts, but where an instrument of management relates to more than one controlled community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

#### **42 Management of assisted community homes**

- (1) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by which the home is provided, and in the following provisions of this section " the responsible organisation ", in relation to such a home, means the voluntary organisation responsible for its management, equipment and maintenance.
- (2) Subject to the following provisions of this section, the responsible organisation shall exercise its functions in relation to the home through the body of managers constituted by the instrument of management for the home, and any thing done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible organisation.
- (3) In so far as any matter is reserved for the decision of the responsible organisation, either by subsection (4) of this section or by the instrument of management for the assisted community home in question or by the service by the responsible organisation on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible organisation itself and not by the managers, but in dealing with any matter so reserved the responsible organisation shall have regard to any representations made to the organisation by the managers.
- (4) The employment of persons at an assisted community home shall be a matter reserved for the decision of the responsible organisation but, subject to subsection (5) of this section.—
  - (a) where the responsible organisation proposes to engage any person to work at the home or to terminate without notice the employment of any person at the home, the responsible organisation shall consult the local authority specified in the instrument of management and, if the local authority so directs, the

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- responsible organisation shall not carry out its proposal without the consent of the local authority ; and
- (b) the local authority may, after consultation with the responsible organisation, require the organisation to terminate the employment of any person at the home.
- (5) Paragraphs (a) and (b) of subsection (4) of this section shall not apply—
- (a) in such cases or circumstances as may be specified by notice in writing given by the local authority to the responsible organisation; and
  - (b) in relation to the employment of any persons or class of persons specified in the instrument of management.
- (6) The accounting year of the managers of an assisted community home shall be such as may be specified by the responsible organisation and, before such date in each accounting year as may be so specified, the managers of an assisted community home shall submit to the responsible organisation estimates, in such form as the organisation may require, of expenditure and receipts in respect of the next financial year; and all expenses incurred by the managers of an assisted community home with the approval of the responsible organisation shall be defrayed by the organisation.
- (7) The managers of an assisted community home shall keep proper accounts in respect of that home and proper records in relation to those accounts, but where an instrument of management relates to more than one assisted community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

#### **43 Control of premises used for, and conduct of, community homes**

- (1) The Secretary of State may make regulations with respect to the conduct of community homes and for securing the welfare of the children in community homes.
- (2) Without prejudice to the generality of subsection (1) of this section, regulations under this section may—
  - (a) impose requirements as to the accommodation and equipment to be provided in community homes and as to the medical arrangements to be made for protecting the health of the children in the homes ;
  - (b) impose requirements as to the facilities which are to be provided for giving religious instruction to children in community homes;
  - (c) require the approval of the Secretary of State for the provision and use of accommodation for the purpose of restricting the liberty of children in community homes and impose other requirements as to the placing of a child in accommodation provided for that purpose, including a requirement to obtain the permission of the local authority or voluntary organisation in whose care the child is;
  - (d) authorise the Secretary of State to give and revoke directions requiring the local authority by whom a community home is provided or who are specified in the instrument of management for a controlled community home or the voluntary organisation by which an assisted community home is provided to accommodate in the home a child in the care of a local authority for whom no places are made available in that home or to take such action in relation to a child accommodated in the home as may be specified in the directions;
  - (e) require reviews of any permission given in pursuance of paragraph (c) above and provide for such a review to be conducted in a manner approved by the Secretary of State by a committee of persons representing the local

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authority or voluntary organisation in question but including at least one person satisfying such conditions as may be prescribed by the regulations with a view to securing that he is independent of the authority or organisation and unconnected with any community home containing such accommodation as is mentioned in the said paragraph (c);

- (f) prescribe standards to which premises used for community homes are to conform ;
  - (g) require the approval of the Secretary of State to the use of buildings for the purpose of community homes and to the doing of anything (whether by way of addition, diminution or alteration) which materially affects the buildings or grounds or other facilities or amenities available for children in community homes;
  - (h) provide that, to such extent as may be provided for in the regulations, the Secretary of State may direct that any provision of regulations under this section which is specified in the direction and makes any such provision as is referred to in paragraph (a), (f) or (g) above shall not apply in relation to a particular community home or the premises used for it, and may provide for the variation or revocation of any such direction by the Secretary of State.
- (3) Without prejudice to the power to make regulations under this section conferring functions on the local authority or voluntary organisation by which a community home is provided or on the managers of a controlled or assisted community home, regulations under this section may confer functions in relation to a controlled or assisted community home on the local authority named in the instrument of management for the home.
- (4) Where it appears to the Secretary of State that any premises used for the purposes of a community home are unsuitable for those purposes, or that the conduct of a community home is not in accordance with regulations made by him under this section or is otherwise unsatisfactory, he may by notice in writing served on the responsible body, direct that as from such date as may be specified in the notice the premises shall not be used for the purposes of a community home.
- (5) Where the Secretary of State has given a direction in relation to a controlled or assisted community home under subsection (4) of this section and the direction has not been revoked, the Secretary of State may at any time by order revoke the instrument of management for that home.
- (6) For the purposes of subsection (4) of this section the responsible body—
- (a) in relation to a community home provided by a local authority, is that local authority ;
  - (b) in relation to a controlled community home, is the local authority specified in the instrument of management for that home ; and
  - (c) in relation to an assisted community home, is the voluntary organisation by which the home is provided.

#### **44 Controlled and assisted community homes exempted from certain provisions as to voluntary homes**

While a voluntary home is a controlled or assisted community home, the following enactments shall not apply in relation to it, that is to say.—

- (a) sections 29 and 30 of the Children Act 1948 (compulsory registration of voluntary homes);



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- (b) section 31 of that Act (regulations as to conduct of voluntary homes); and
- (c) section 93 of the Act of 1933 and section 32 of the Children Act 1948 (notification to Secretary of State of certain particulars relating to voluntary homes).

#### **45 Determination of disputes relating to controlled and assisted community homes**

- (1) Subject to subsection (5) of this section, where any dispute relating to a controlled community home arises between the local authority specified in the instrument of management and either the voluntary organisation by which the home is provided or any other local authority who have placed, or desire or are required to place, a child in their care in the home, the dispute may be referred by either party to the Secretary of State for his determination.
- (2) Subject to subsection (5) of this section, where any dispute relating to an assisted community home arises between the voluntary organisation by which the home is provided and any local authority who have placed, or desire to place, a child in their care in the home, the dispute may be referred by either party to the Secretary of State for his determination.
- (3) Where a dispute is referred to the Secretary of State under this section he may, in order to give effect to his determination of the dispute, give such directions as he thinks fit to the local authority or voluntary organisation concerned.
- (4) The provisions of this section shall apply notwithstanding that the matter in dispute may be one which, under or by virtue of the preceding provisions of this Part of this Act, is reserved for the decision, or is the responsibility, of the local authority specified in the instrument of management or, as the case may be, the voluntary organisation by which the home is provided.
- (5) Where any trust deed relating to a controlled or assisted community home contains provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide questions relating to religious instruction given in the home, no dispute which is capable of being dealt with in accordance with that provision shall be referred to the Secretary of State under this section.

#### **46 Discontinuance of approved schools etc. on establishment of community homes**

- (1) If in the case of any approved school, remand home, approved probation hostel or approved probation home within the meaning of the Criminal Justice Act 1948 (hereafter in this section referred to as an " approved institution ") it appears to the Secretary of State that in consequence of the establishment of community homes for a planning area the institution as such is no longer required, he may by order provide that it shall cease to be an approved institution on a date specified in the order.
- (2) The provisions of Schedule 3 to this Act shall have effect in relation to institutions which are, or by virtue of this section have ceased to be, approved institutions.

#### **47 Discontinuance by voluntary organisation of controlled or assisted community home**

- (1) The voluntary organisation by which a controlled or assisted community home is provided shall not cease to provide the home except after giving to the Secretary of

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State and the local authority specified in the instrument of management not less than two years' notice in writing of their intention to do so.

- (2) A notice under subsection (1) of this section shall specify the date from which the voluntary organisation intends to cease to provide the home as a community home; and where such a notice is given and is not withdrawn before the date specified in it, then, subject to subsection (4) of this section the instrument of management for the home shall cease to have effect on that date and accordingly the home shall then cease to be a controlled or assisted community home.
- (3) Where a notice is given under subsection (1) of this section, the local authority to whom the notice is given shall inform the children's regional planning committee responsible for the regional plan under which the voluntary home in question was designated as a controlled or assisted community home of the receipt and content of the notice.
- (4) Where a notice is given under subsection (1) of this section and the body of managers for the home to which the notice relates give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers of the home until the date specified in the first-mentioned notice, the Secretary of State may by order—
  - (a) revoke the instrument of management; and
  - (b) require the local authority who were specified in that instrument to conduct the home, until the date specified in the notice under subsection (1) of this section or such earlier date (if any) as may be specified for the purposes of this paragraph in the order, as if it were a community home provided by the local authority.
- (5) Where the Secretary of State makes such a requirement as is specified in subsection (4) (b) of this section.—
  - (a) nothing in the trust deed for the home in question shall affect the conduct of the home by the local authority; and
  - (b) the Secretary of State may by order direct that for the purposes of any provision specified in the direction and made by or under any enactment relating to community homes (other than this section) the home shall, until the date or earlier date specified as mentioned in subsection (4)(b) of this section, be treated as an assisted community home or as a controlled community home, but except in so far as the Secretary of State so directs, the home shall until that date be treated for the purposes of any such enactment as a community home provided by the local authority ; and
  - (c) on the date or earlier date specified as mentioned in subsection (4)(b) of this section the home shall cease to be a community home.

#### **48 Financial provisions applicable on cessation of controlled or assisted community home**

- (1) Where the instrument of management for a controlled or assisted community home ceases to have effect by virtue either of an order under section 43(5) of this Act or of subsection (2) or subsection (4)(a) of section 47 of this Act, the voluntary organisation by which the home was provided or, if the premises used for the purposes of the home are not vested in that organisation, the persons in whom those premises are vested (in this section referred to as " the trustees of the home "), shall become liable, in accordance with the following provisions of this section, to make repayment in respect of any increase in the value of the premises and other property belonging

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to the voluntary organisation or the trustees of the home which is attributable to the expenditure of public money thereon.

- (2) Where an instrument of management has ceased to have effect as mentioned in subsection (1) of this section and the instrument related—
- (a) to a controlled community home ; or
  - (b) to an assisted community home which, at any time before that instrument of management came into force, was a controlled community home,
- then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the local authority specified in that instrument of management a sum equal to that part of the value of any relevant premises which is attributable to expenditure by the local authority who at the time the expenditure was incurred had responsibility for the management, equipment and maintenance of the home by virtue of section 41(1) of this Act.
- (3) For the purposes of subsection (2) of this section, " relevant premises", in relation to a controlled or assisted community home, means premises used for the purposes of the home and belonging to the voluntary organisation or the trustees of the home but erected, extended or improved, at any time while the home was a controlled community home, by the local authority having, at that time, such responsibility in relation to the home as is mentioned in subsection (2) of this section.
- (4) Where an instrument of management has ceased to have effect as mentioned in subsection (1) of this section and the instrument related—
- (a) to an assisted community home ; or
  - (b) to a controlled community home which, at any time before that instrument of management came into force, was an assisted community home,
- then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the Secretary of State a sum equal to that part of the value of the premises and any other property used for the purposes of the home which is attributable to the expenditure of money provided by way of grant under section 65 of this Act.
- (5) Where an instrument of management has ceased to have effect as mentioned in subsection (1) of this section and the controlled or assisted community home to which it related was conducted in premises which formerly were used as an approved school or were an approved probation hostel or home but which were designated as a community home in a regional plan approved by the Secretary of State, then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the Secretary of State a sum equal to that part of the value of the premises concerned and of any other property used for the purposes of the home and belonging to the voluntary organisation or the trustees of the home which is attributable to the expenditure—
- (a) of sums paid towards the expenses of the managers of an approved school under section 104 of the Act of 1933; or
  - (b) of sums paid under section 77(3)(b) of the Criminal Justice Act 1948 in relation to expenditure on approved probation hostels or homes.
- (6) The amount of any sum payable under this section by the voluntary organisation by which a controlled or assisted community home was provided or by the trustees of the home shall be determined in accordance with such arrangements—

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- (a) as may be agreed between the voluntary organisation by which the home was provided and the local authority concerned or, as the case may be, the Secretary of State; or
  - (b) in default of agreement, as may be determined by the Secretary of State;
- and with the agreement of the local authority concerned or the Secretary of State, as the case may be, the liability to pay any sum under this section may be discharged, in whole or in part, by the transfer of any premises or other property used for the purposes of the home in question.
- (7) The provisions of this section shall have effect notwithstanding anything in any trust deed for a controlled or assisted community home and notwithstanding the provisions of any enactment or instrument governing the disposition of the property of a voluntary organisation.
  - (8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

*Consequential modifications of ss. 13 and 19 of Children Act 1948*

#### **49 Provision of accommodation and maintenance for children in care**

For section 13 of the Children Act 1948 there shall be substituted the following section:

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**“13 Provision of accommodation and maintenance for children in care.**

- (1) A local authority shall discharge their duty to provide accommodation and maintenance for a child in their care in such one of the following ways as they think fit, namely.—
  - (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 him in a community home or in any such home as is referred to in section 64 of the Children and Young Persons Act 1969; or
  - (c) by maintaining him in a voluntary home (other than a community home) the managers of which are willing to receive him;
 or by making such other arrangements as seem appropriate to the local authority.
- (2) Without prejudice to the generality of subsection (1) of this section, a local authority may allow a child in their care, either for a fixed period or until the local authority otherwise determine, to be under the charge and control of a parent, guardian, relative or friend.
- (3) The terms, as to payment and other matters, on which a child may be accommodated and maintained in any such home as is referred to in section 64 of that Act shall be such as the Secretary of State may from time to time determine.”

## **50 Accommodation of persons over school age in convenient community home**

For section 19 of the Children Act 1948 there shall be substituted the following section:

### **“19 Accommodation of persons over school age in convenient community home.**

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

### *Foster children*

## **51 Modification of general duty of local authorities with respect to foster children**

For section 1 of the Children Act 1958 (which imposes a duty on every local authority to secure that foster children are visited by officers of the authority) there shall be substituted the following section:—

### **“1 Duty of local authorities to ensure well-being of foster children.**

It shall be the duty of every local authority to satisfy themselves as to the well-being of children within their area who are foster children within the meaning of this Part of this Act and, for that purpose, to secure that, so far as appears to the authority to be appropriate, the children are visited from time to time by officers of the authority and that such advice is given as to the care and maintenance of the children as appears to be needed.”

## **52 Amendments of definitions of " foster child " and " protected child "**

- (1) In subsection (1) of section 2 of the Children Act 1958 (which, subject to the following provisions of that section, defines a foster child for the purposes of Part I of that Act as a child below the upper limit of the compulsory school age whose care and maintenance are undertaken for reward for a period exceeding one month by a person who is not a relative or guardian of his) the words from " for reward " to " one month " shall be omitted.
- (2) At the end of paragraph (c) of subsection (3) of the said section 2 (which provides that a child is not a foster child while he is in the care of any person in a school) there shall be added the words " in which he is receiving full time education ".
- (3) After subsection (3) of the said section 2 there shall be inserted the following subsection:—

“(3A) A child is not a foster child within the meaning of this Part of this Act at any time while his care and maintenance are undertaken by a person, other than a relative or guardian of his, if at that time—

  - (a) that person does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than six days ; or

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- (b) that person is not a regular foster parent and does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than twenty-seven days;

and for the purposes of this subsection a person is a regular foster parent if, during the period of twelve months immediately preceding the date on which he begins to undertake the care and maintenance of the child in question, he had, otherwise than as a relative or guardian, the care and maintenance of one or more children either for a period of, or periods amounting in the aggregate to, not less than three months or for at least three continuous periods each of which was of more than six days.”

- (4) Section 37 of the Adoption Act 1958 (which defines "protected child" for the purposes of Part IV of that Act) shall have effect subject to the following modifications:—
- (a) in paragraph (a) of subsection (1) (which refers to arrangements for placing a child in the care of a person who is not a parent, guardian or relative of his) after the words "relative of his" there shall be inserted the words "but who proposes to adopt him";
- (b) in subsection (1) (which among other matters excludes a foster child from the definition of "a protected child") the words "but is not a foster child within the meaning of Part I of the Children Act 1958" shall be omitted; and
- (c) in subsection (2) (which excludes certain children from the definition of protected child, including children only temporarily in the care and possession of a person under such arrangements as are referred to in subsection (1)(a) of that section) the words from "by reason" to "that subsection, nor" shall be omitted.
- (5) In consequence of the modifications of the definition of "protected child" specified in subsection (4) of this section, after subsection (4) of section 2 of the Children Act 1958 there shall be inserted the following subsection:—
- “(4A) A child is not a foster child for the purposes of this Part of this Act while he is placed in the care and possession of a person who proposes to adopt him under arrangements made by such a local authority or registered adoption society as is referred to in Part II of the Adoption Act 1958 or while he is a protected child within the meaning of Part IV of that Act.”

### **53 Modification of duty of persons maintaining foster children to notify local authority**

- (1) Section 3 of the Children Act 1958 (which requires any person maintaining foster children to notify the local authority on each occasion on which he receives a foster child) shall have effect subject to the following provisions of this section.
- (2) In subsection (1) of the section (which requires at least two weeks advance notice of, or, in an emergency, notice within one week after, the reception of a foster child) at the beginning there shall be inserted the words "Subject to the following provisions of this section", after the words "two weeks" there shall be inserted the words "and not more than four weeks" and for the words "one week" there shall be substituted the words "forty-eight hours".
- (3) In subsection (2) of the section (which relates to the content of the notice) after the word "specify" there shall be inserted the words "the date on which it is intended

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that the child should be received or, as the case may be, on which the child was in fact received or became a foster child and ".

(4) After subsection (2) of the section there shall be inserted the following subsection :—

“(2A) A person shall not be required to give notice under subsection (1) of this section in relation to a child if—

- (a) he has on a previous occasion given notice under that subsection in respect of that or any other child, specifying the premises at which he proposes to keep the child in question ; and
- (b) he has not, at any time since that notice was given, ceased to maintain at least one foster child at those premises and been required by virtue of the following provisions of this section to give notice under subsection (5A) of this section in respect of those premises.”

(5) In subsection (3) of the section (which relates to notification of changes of address of foster parents and requires similar periods of notice as under subsection (1))—

- (a) for the words " a foster child" there shall be substituted the words " one or more foster children ";
- (b) for the words " the child is kept" there shall be substituted the words " the child is, or the children are, kept ";
- (c) after the words " two weeks " there shall be inserted the words " and not more than four weeks " ; and
- (d) for the words " one week " there shall be substituted the words " forty-eight hours " .

(6) So much of subsection (4) of the section as requires notification that a foster child has been removed or has removed himself from the care of the person maintaining him shall cease to have effect and, accordingly, in that subsection for the words " that person " there shall be substituted the words " the person who was maintaining him " and in subsection (5) of the section (which dispenses with the need for such a notice where a child ceases to be a foster child on his removal from a foster parent but empowers the local authority concerned to require certain particulars in such a case)—

- (a) for the words " ceases to be a foster child on his removal" there shall be substituted the words " is removed or removes himself " ;
- (b) the words " need not give notice under subsection (4) of this section but " shall be omitted ; and
- (c) for the words from " the same " onwards there shall be substituted the words " the name and address, if known, of the person (if any) into whose care the child has been removed " .

(7) After subsection (5) of the section there shall be inserted the following subsections:—

“(5A) Subject to the provisions of the following subsection, where a person who has been maintaining one or more foster children at any premises ceases to maintain foster children at those premises and the circumstances are such that no notice is required to be given under subsection (3) or subsection (4) of this section, that person shall, within forty-eight hours after he ceases to maintain any foster child at those premises, give notice in writing thereof to the local authority.

(5B) A person need not give the notice required by the preceding subsection in consequence of his ceasing to maintain foster children at any premises if, at the time he so ceases, he intends within twenty-seven days again to maintain any

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of them as a foster child at those premises; but if he subsequently abandons that intention or the said period expires without his having given effect to it he shall give the said notice within forty-eight hours of that event.”

#### **54 Inspection of premises in which foster children are kept**

- (1) In section 4(1) of the Children Act 1958 (which empowers an officer of a local authority to inspect premises in the local authority's area in which foster children are being kept) after the word " in " in the second place where it occurs there shall be inserted the words " the whole or any part of ".
- (2) After the said section 4(1) there shall be inserted the following subsection:—
  - “(1A) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
    - (a) that there is reasonable cause to believe that a foster child is being kept in any premises, or in any part thereof, and
    - (b) that admission to those premises or that part thereof has been refused to a duly authorised officer of the local authority or that such a refusal is apprehended or that the occupier is temporarily absent,
 the justice may by warrant under his hand authorise an officer of the local authority to enter the premises, if need be by force, at any reasonable time within forty-eight hours of the issue of the warrant, for the purpose of inspecting the premises.”
  - (3) At the end of paragraph (b) of section 14(1) of the Children Act 1958 (which makes it an offence under that section to refuse to allow an inspection of any premises under section 4(1) of that Act) there shall be added the words " or wilfully obstructs a person entitled to enter any premises by virtue of a warrant under subsection (1A) of that section ".

#### **55 Imposition of requirements and prohibitions relating to the keeping of foster children**

- (1) In section 4(2) of the Children Act 1958 (which empowers a local authority to impose certain requirements on a person who keeps or proposes to keep foster children in premises used wholly or mainly for that purpose) for the word " mainly " there shall be substituted the word " partly ".
- (2) After paragraph (f) of the said section 4(2) there shall be inserted the following paragraphs:—
  - “(g) the fire precautions to be taken in the premises;
  - (h) the giving of particulars of any foster child received in the premises and of any change in the number or identity of the foster children kept therein.”
- (3) In the words following the several paragraphs of the said section 4(2), after the word "but" there shall be inserted the words " any such requirement may be limited to a particular class of foster children kept in the premises and " and for the words " (b) to (f) " there shall be substituted the words " (b) to (h) ".
- (4) For subsection (3) of section 4 of the Children Act 1958 (which empowers a local authority to prohibit a person from keeping a particular foster child or any foster children at particular premises) there shall be substituted the following subsections:—



“(3) Where a person proposes to keep a foster child in any premises and the local authority are of the opinion that—

- (a) the premises are not suitable premises in which to keep foster children ; or
- (b) that person is not a suitable person to have the care and maintenance of foster children ; or
- (c) it would be detrimental to that child to be kept by that person in those premises;

the local authority may impose a prohibition on that person under subsection (3A) of this section.

(3A) A prohibition imposed on any person under this subsection may—

- (a) prohibit him from keeping any foster child in premises specified in the prohibition ; or
- (b) prohibit him from keeping any foster child in any premises in the area of the local authority ; or
- (c) prohibit him from keeping a particular child specified in the prohibition in premises so specified.

(3B) Where a local authority have imposed a prohibition on any person under subsection (3A) of this section, the local authority may, if they think fit, cancel the prohibition, either of their own motion or on an application made by that person on the ground of a change in the circumstances in which a foster child would be kept by him.”

(5) In section 5(1) of the Children Act 1958 (which confers a right of appeal to a juvenile court within fourteen days of the imposition of a requirement or prohibition under section 4 of that Act) after the word " prohibition ", in the second place where it occurs, there shall be inserted the words " or, in the case of a prohibition imposed under subsection (3A) of that section, within fourteen days from the refusal by the local authority to accede to an application by him for the cancellation of the prohibition ".

## **56 Extension of disqualification for keeping foster children**

(1) In section 6 of the Children Act 1958 (which provides that a person shall not, without the consent of the local authority, maintain a foster child if one or more of a variety of orders has been made against him) there shall be made the following amendments, that is to say—

- (a) in paragraph (b), after the word " 1933 ", there shall be inserted the words " the Children and Young Persons Act 1969 " and for the words from " in respect of " to " of which the " there shall be substituted the words " and by virtue of the order or requirement a ";
- (b) at the end of paragraph (c) there shall be inserted the words " or has been placed on probation or discharged absolutely or conditionally for any such offence ";
- (c) in paragraph (e), after the word " subsection " there shall be inserted the words " (3) or " and for the words from " refusing " onwards there shall be substituted the words " refusing, or an order under section five of that Act cancelling, the registration of any premises occupied by him or his registration ";
- (d) after paragraph (e) there shall be inserted the following paragraph:—

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“(f) an order has been made under section 43 of the Adoption Act 1958 for the removal of a protected child who was being kept or was about to be received by him.”

(2) At the end of the said section 6 there shall be added the following subsection: —

“(2) Where this section applies to any person, otherwise than by virtue of this subsection, it shall apply also to any other person who lives in the same premises as he does or who lives in premises at which he is employed ;”  
and accordingly the said section 6 as amended by the preceding subsection shall be subsection (1) of that section.

## **57 Modifications of provisions as to offences**

(1) After subsection (1) of section 14 of the Children Act 1958 (which, among other matters, makes it an offence to maintain a foster child in contravention of section 6 of that Act) there shall be inserted the following subsection:—

“(1A) Where section 6 of this Act applies to any person by virtue only of subsection (2) of that section, he shall not be guilty of an offence under paragraph (d) of subsection (1) of this section if he proves that he did not know, and had no reasonable ground for believing, that a person living or employed in the premises in which he lives was a person to whom that section applies.”

(2) After subsection (2) of the said section 14 (which provides that offences under that section are punishable summarily) there shall be added the following subsection :—

“(2A) If any person who is required, under any provision of this Part of this Act, to give a notice fails to give the notice within the time specified in that provision, then, notwithstanding anything in section 104 of the Magistrates' Courts Act 1952 (time limit for proceedings) proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the local authority.”

### *Inspection*

## **58 Inspection of children's homes etc. by persons authorised by Secretary of State**

(1) Subject to subsection (2) of this section, the Secretary of State may cause to be inspected from time to time—

- (a) any community home provided by a local authority under section 38 of this Act;
- (b) any voluntary home (whether a community home or not);
- (c) any other premises at which one or more children in the care of a local authority are being accommodated and maintained;
- (d) any other premises at which one or more children are being boarded out by a voluntary organisation; and
- (e) any other premises where a foster child within the meaning of Part I of the Children Act 1958 or a child to whom any of the provisions of that Part are extended by section 12 or section 13 of that Act, or a protected child within the meaning of Part IV of the Adoption Act 1958 is being accommodated or maintained.

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- (2) Subsection (1) of this section does not apply to any home or other premises which is, as a whole, subject to inspection by or under the authority of a government department.
- (3) An inspection under this section shall be conducted by a person authorised in that behalf by the Secretary of State, but an officer of a local authority shall not be so authorised except with the consent of that authority.
- (4) Any person inspecting a home or other premises under this section may inspect the children therein and make such examination into the state and management of the home or other premises and the treatment of children therein as he thinks fit.

## **59 Powers of entry supplemental to s. 58**

- (1) A person authorised to inspect any home or other premises under section 58 of this Act shall have a right to enter the home or other premises for that purpose and for any other purpose specified in subsection (4) of that section, but shall if so required produce some duly authenticated document showing his authority to exercise the power of entry conferred by this subsection.
- (2) A person who obstructs the exercise by a person authorised as mentioned in subsection (1) of this section of a power of entry conferred thereby shall be liable on summary conviction to a fine not exceeding five pounds or, in the case of a second or subsequent conviction, to a fine not exceeding twenty pounds.
- (3) A refusal to allow any such person as is mentioned in subsection (1) of this section to enter any such home or other premises as are mentioned in section 58(1) of this Act shall be deemed, for the purposes of section 40 of the Act of 1933 (which relates to search warrants), to be a reasonable cause to suspect that a child or young person in the home or other premises is being neglected in a manner likely to cause him unnecessary suffering or injury to health.