

*Changes to legislation:* There are currently no known outstanding effects for the Children and Young Persons Act 1969, Cross Heading: Financial provisions. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

#### APPROVED SCHOOLS AND OTHER INSTITUTIONS

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

- C1** Sch. 3 amended by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 2 para. 17](#)

##### *Financial provisions*

- 8 (1) During the period which is the interim period in relation to an approved school or to a classifying centre falling within paragraph 4(3)(a) of this Schedule contributions shall be payable by local authorities to the managers of that school or, as the case may be, the local authority providing the classifying centre in respect of children in the care of the authorities who are accommodated and maintained in the school premises or the classifying centre in accordance with paragraph 3(1) or paragraph 4(1) of this Schedule.
- (2) The contributions payable by a local authority under sub-paragraph (1) above in respect of a child in their care shall be payable throughout the time during which the child is accommodated and maintained in the approved school or classifying centre concerned and shall be such as may be prescribed by regulations made by the Secretary of State.
- 9 (1) Where a section 46 order is made in relation to an approved institution, other than an institution provided by a local authority, and in a regional plan approved by the Secretary of State the whole or any part of the premises of the approved institution is designated as a community home, then,—
- (a) on the coming into force of an instrument of management for a voluntary home which consists of or includes the premises so designated; or
- (b) on the transfer of the premises so designated to a local authority in pursuance of an authorisation under paragraph 6 of this Schedule,
- any such obligation relating to that institution as is referred to in sub-paragraph (2) of this paragraph shall cease.
- (2) Sub-paragraph (1) of this paragraph applies to any obligation arising by virtue of a condition imposed under [<sup>F1</sup>any] of the following enactments, namely,—
- (a) section 104 of the Act of 1933 (expenses of managers of an approved school); <sup>F2</sup> . . .
- (b) [<sup>F3</sup>section 20 of the Probation Service Act 1993] (expenditure in connection with approved probation hostels or homes).
- [<sup>F4</sup>(c) section 3 of the Criminal Justice and Court Services Act 2000 (functions of the Secretary of State);

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- (d) section 5 of that Act (functions of local probation boards); <sup>F5</sup>...
  - (e) section 9 of that Act (approved premises).]
  - [<sup>F6</sup>(f) section 6 of the Offender Management Act 2007 (power to make grants for probation purposes etc);
  - (g) section 2(1) (responsibility for ensuring the provision of probation services) and section 3 (power to make arrangements for the provision of probation services) of the Offender Management Act 2007; or
  - (h) section 13 of the Offender Management Act 2007 (approved premises).]
- (3) In a case falling within sub-paragraph (1) of this paragraph, the section 46 order may contain provisions requiring the responsible authority or organisation or, as the case may be, the local authority to whom the premises are transferred, to pay to the Secretary of State such sum as he may determine in accordance with sub-paragraph (4) of this paragraph by way of repayment of a proportion of any grants made in relation to the former approved institution under either of the enactments referred to in sub-paragraph (2) of this paragraph, but where the community home concerned is an assisted community home, the section 46 order may provide that, with the consent of the Treasury, the Secretary of State may reduce the sum to be paid to him in accordance with the preceding provisions of this sub-paragraph to such sum as he thinks fit.
- (4) For the purpose of determining any such sum as is mentioned in sub-paragraph (3) of this paragraph, the Secretary of State shall assess—
- (a) the amount which in his opinion represents the proportion of the total amount of the grants paid in respect of expenditure in connection with the former approved institution which was attributable to expenditure of a capital nature; and
  - [<sup>F7</sup>(b) the amount which in his opinion represents the proportion of the contributions paid by local authorities under section 90 of the Act of 1933 or (as the case may be) the proportion of the sums paid by—
    - (i) probation committees under rules made under the Probation Service Act 1993,
    - (ii) the Secretary of State under section 3 or 9 of the Criminal Justice and Court Services Act 2000, <sup>F8</sup>...
    - (iii) local probation boards under section 5 of that Act,
    - [ the Secretary of State under sections 6 or 13 of the Offender
    - <sup>F9</sup>(iv) Management Act 2007; and
    - (v) providers of probation services under section 3 of the Offender Management Act 2007.]
 which (in either case) should be treated as having been paid on account of expenditure of a capital nature in connection with the former approved institution;]
- (5) If the instrument of management for an assisted community home ceases to have effect as mentioned in subsection (1) of section 48 of this Act there shall be deducted from any sum which is payable to the Secretary of State under subsection (5) of that section any sums paid to him by the responsible organisation in respect of the assisted community home in pursuance of any such provisions of a section 46 order relating to the former approved institution as are referred to in sub-paragraph (3) of this paragraph.

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- (6) In this paragraph “the former approved institution”, in relation to a community home, means the approved institution the whole or part of the premises of which are comprised in that home.

#### Textual Amendments

- F1** Word in Sch. 3 para. 9(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(3)(a)(i)**; S.I. 2001/919, **art. 2(f)(ii)**
- F2** Word in Sch. 3 para. 9(2) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 43(3)(a)(ii), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**
- F3** Words in Sch. 3 para. 9(2)(4) substituted (5.2.1994) by virtue of 1993 c. 47, ss. 32, 33, **Sch. 3 para. 3(4)(a)(b)**.
- F4** Sch. 3 para. 9(2)(c)-(e) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(3)(a)(iii)**; S.I. 2001/919, **art. 2(f)(ii)**
- F5** Word in Sch. 3 para. 9(2) omitted (1.4.2008) by virtue of The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 3(3)(b)(i)**
- F6** Sch. 3 para. 9(2)(f)-(h) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 3(3)(b)(ii)**
- F7** Sch. 3 para. 9(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(3)(b)**; S.I. 2001/919, **art. 2(f)(ii)**
- F8** Word in Sch. 3 para. 9(4)(b) omitted (1.4.2008) by virtue of The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 3(3)(c)(i)**
- F9** Sch. 3 para. 9(4)(b)(iv)(v) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 3(3)(c)(ii)**

- 10 (1) The provisions of this paragraph apply where in a regional plan approved by the Secretary of State, the whole or any part of the premises of an approved institution to which a section 46 order relates is designated as a controlled or assisted community home and an instrument of management for a community home which consists of or includes the premises so designated has come into force; and in this paragraph “the former approved institution”, in relation to such a community home, means the approved institution the whole or part of the premises of which are comprised in that home.
- (2) Where this paragraph applies and the community home concerned is a controlled community home, then—
- (a) the Secretary of State may, by the section 46 order, make such provision as he considers appropriate for the transfer to the responsible authority of any rights, liabilities and obligations which, immediately before the specified date, were rights, liabilities and obligations of the managers of, or the society or person carrying on, the former approved institution; and
- (b) except in so far as the section 46 order otherwise provides, any legal proceedings pending immediately before the specified date by or against those managers or that society or person shall be continued on and after that date, with the substitution of the responsible authority for those managers or that society or person as a party to the proceedings.
- (3) Where this paragraph applies and the community home concerned is an assisted community home but the responsible organisation does not consist of the persons who were the managers of or, as the case may be, is not the society or person who carried on, the former approved institution, paragraphs (a) and (b) of sub-

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paragraph (2) of this paragraph shall apply with the substitution for any reference to the responsible authority of a reference to the responsible organisation.

- (4) If any liabilities of a voluntary organisation which is the responsible organisation in relation to an assisted community home falling within sub-paragraph (1) of this paragraph were incurred by the organisation before the specified date or were transferred to the organisation by the section 46 order (by virtue of sub-paragraph (3) of this paragraph) and, in either case, had the former approved institution continued to be an approved institution, any expenditure incurred in meeting those liabilities would have been eligible for a grant out of moneys provided by Parliament—

- (a) under section 104(1)(a) of the Act of 1933 as the expenses of the managers of an approved school, or
- (b) under section 77(3)(b) of the <sup>M1</sup>Criminal Justice Act 1948 [<sup>F10</sup>or under section 51(3)(c) of the <sup>M2</sup>Powers of Criminal Courts Act 1973][<sup>F11</sup>or under section 20 of the Probation Service Act 1993][<sup>F12</sup>or under section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000][<sup>F13</sup>or under sections 3, 6 or 13 of the Offender Management Act 2007] as expenditure falling within that section and relating to an approved probation hostel or home,

then any expenditure incurred after the specified date by the responsible organisation in meeting those liabilities shall be deemed for the purposes of section 65(1) of this Act to be expenditure incurred by the responsible organisation in connection with the assisted community home in question.

#### Textual Amendments

- F10** Words inserted by [Powers of Criminal Courts Act 1973 \(c. 62, SIF 39:1\)](#), **Sch. 5 para. 38(c)**
- F11** Words in Sch. 3 para. 10(4) inserted (5.2.1994) by [1993 c. 47, ss. 32, 33](#), **Sch. 3 para. 3(4)(c)**.
- F12** Words in s. 10(4)(b) inserted (1.4.2001) by [2000 c. 43, s. 74](#), **Sch. 7 Pt. II para. 43(4)**; [S.I. 2001/919, art. 2\(f\)\(ii\)](#)
- F13** Words in [Sch. 3 para. 10\(4\)\(b\)](#) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, **Sch. 1 para. 3(3)(d)**

#### Marginal Citations

- M1** [1948 c. 58\(39:1\)](#).
- M2** [1973 c. 62\(39:1\)](#).

- 11 (1) Where a section 46 order is made in relation to an approved institution and no such provision as is referred to in sub-paragraph (1) of paragraph 9 of this Schedule is made by a regional plan in relation to any part of the premises of the institution, the person or persons on whom falls any such obligation (in this paragraph referred to as a “repayment obligation”) relating to the institution as is referred to in sub-paragraph (2) of that paragraph may apply to the Secretary of State for an order under this paragraph.
- (2) If, on an application under sub-paragraph (1) of this paragraph, it appears to the Secretary of State that on or within a reasonable time after the specified date the premises of the institution concerned or the proceeds of sale of the whole or any part of those premises are to be used for a purpose which is of benefit to children, he may with the consent of the Treasury make an order—
- (a) substituting for the conditions under which the repayment obligation arose such different conditions as he considers appropriate with respect to the repayment of any sum to which the repayment obligation relates; and

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- (b) if the person or persons on whom the repayment obligation falls so request, imposing any liability to repay a sum in pursuance of the substituted conditions referred to in paragraph (a) above on such other person or persons as consent to accept the liability and as, in the opinion of the Secretary of State, will be able to discharge that liability.

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