



Foster Children Act 1980

1980 CHAPTER 6

Foster children for purposes of the Act

1 Foster children

Subject to section 2 below, a child is a foster child for the purposes of this Act if he is below the upper limit of the compulsory school age and his care and maintenance are undertaken by a person who is not a relative, guardian or custodian of his.

2 Exceptions to section 1

- (1) A child is not a foster child while he is in the care of a local authority or a voluntary organisation or is boarded out by a local authority or a local education authority.
- (2) A child is not a foster child while he is in the care of any person—
 - (a) in premises in which any parent, adult relative or guardian of his is for the time being residing;
 - (b) in any voluntary home within the meaning of Part VI of the Child Care Act 1980 ;
 - (c) in any school within the meaning of the Education Act 1944 in which he is receiving full-time education;
 - (d) in any hospital, or in any nursing home registered or exempted from registration under the Nursing Homes Act 1975; or
 - (e) in any home or institution not specified in this subsection or subsection (5) below but maintained by a public or local authority.
- (3) A child is not a foster child at any time while his care and maintenance are undertaken by any person—
 - (a) who is not a regular foster parent and at that time does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than 27 days; or
 - (b) who is a regular foster parent but at that time does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than six days.

Status: This is the original version (as it was originally enacted).

In this subsection "regular foster parent" means a person who—

- (i) during the period of 12 months immediately preceding the date on which he begins to undertake the care and maintenance of the child in question, and
- (ii) otherwise than as a relative or guardian,

had 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) A child is not a foster child while he is in the care of any person in compliance with a supervision order within the meaning of the Children and Young Persons Act 1969 or a supervision requirement within the meaning of the Social Work (Scotland) Act 1968.
- (5) A child is not a foster child while he is liable to be detained or subject to guardianship under the Mental Health Act 1959, or is resident in a residential home for mentally disordered persons within the meaning of the Residential Homes Act 1980.
- (6) A child is not a foster child—
 - (a) while he is placed in the care and possession of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of section 1 of the Adoption Act 1976 or section 1 of the Adoption (Scotland) Act 1978 ; or
 - (b) while he is a protected child within the meaning of Part III of the Adoption Act 1976.

Duties of local authorities

3 Local authorities to ensure well-being of, and to visit, foster children

- (1) Subject to subsection (3) below, it shall be the duty of every local authority to satisfy themselves as to the well-being of foster children within their area and, for that purpose, to secure—
 - (a) that the children are visited by officers of the authority in accordance with regulations made under subsection (2) below; and
 - (b) that such advice is given as to the care and maintenance of the children as appears to be needed.
- (2) The Secretary of State may make regulations requiring roster children in a local authority's area to be visited by an officer of the local authority on specified occasions or within specified periods of time.
- (3) Until such time as the Secretary of State may by order made by statutory instrument appoint, subsection (1) above shall have effect with the substitution for paragraph (a) of the following paragraph—
 - “(a) 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”.

Notification of fostering to local authorities

4 Notification by parents

- (1) The Secretary of State may by regulations make provision for requiring parents whose children are, or are going to be, maintained as foster children to give to the local authority for the area where the children are, or are going to be, living as foster children such information about the fostering as may be specified in the regulations.
- (2) Regulations under this section may include such incidental and supplementary provisions as the Secretary of State thinks fit.

5 Notification by persons maintaining, or proposing to maintain, foster children

- (1) A person who proposes to maintain as a foster child a child not already in his care shall give written notice thereof to the local authority in whose area the premises in which the child is to be kept are situated, not less than two weeks and not more than four weeks before he receives the child, unless he receives him in an emergency.
- (2) A person who maintains a foster child—
 - (a) whom he received in an emergency, or
 - (b) who became a foster child while in his care,shall give written notice thereof to the local authority in whose area the premises in which the child is being kept are situated, not later than 48 hours after he receives the child or, as the case may be, after the child becomes a foster child.
- (3) A notice under subsection (1) or (2) above shall specify
 - (a) the date on which it is intended 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
 - (b) the premises in which the child is to be or is being kept.
- (4) Where a person who is maintaining one or more foster children changes his permanent address or the premises in which the child is, or the children are, kept, he shall give written notice to the local authority—
 - (a) not less than two weeks and not more than four weeks before the change, or
 - (b) if the change is made in an emergency, not later than 48 hours after the change,specifying the new address or premises ; and if the new premises are in the area of another local authority, or of a local authority in Scotland, the authority to whom the notice is given shall inform that other authority and give them such of the particulars mentioned in subsection (5) below as are known to them.
- (5) At the request of the local authority, a person maintaining or proposing to maintain a foster child shall give them, so far as known to him, the following particulars—
 - (a) the name, sex and date and place of birth of the child; and
 - (b) the name and address of every person who is a parent or guardian or acts as a guardian of the child or from whom the child was or is to be received.

6 Notification by persons ceasing to maintain foster children

- (1) If a foster child dies, the person who was maintaining him shall give, not later than 48 hours after the death, written notice of the death to the local authority and to the person from whom the child was received.

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

- (2) Subject to subsection (3) below, where a person who has been maintaining a foster child at any premises—
- (a) ceases to maintain that foster child at those premises, and
 - (b) the circumstances are such that no notice is required to be given under section 5(4) or subsection (1) above,
- that person shall give written notice thereof to the local authority not later than 48 hours after he ceases to maintain that foster child at those premises.
- (3) A person need not give the notice required by subsection (2) above in consequence of his ceasing to maintain a foster child at any premises if, at the time he so ceases, he intends within 27 days again to maintain that foster child at those premises; but if—
- (a) he subsequently abandons that intention, or
 - (b) that period expires without his having given effect to it,
- he shall give the said notice within 48 hours of that event.
- (4) Where a foster child is removed or removes himself from the care of the person maintaining him, that person shall give the local authority at their request the name and address, if known, of the person (if any) into whose care the child has been removed.

Disqualification for fostering

7 Persons disqualified from keeping foster children

- (1) A person shall not maintain a foster child if—
- (a) an order removing a child from his care has been made against him under this Act or (whether before or after the commencement of this Act) under Part I of the Children Act 1958 ;
 - (b) an order has been made under the Children and Young Persons Act 1933, the Children and Young Persons Act 1969, or the Children and Young Persons (Scotland) Act 1937, or a supervision requirement has been made under the Social Work (Scotland) Act 1968, and by virtue of the order or requirement a child was removed from his care;
 - (c) he has been convicted of any offence specified in Schedule 1 to the said Act of 1933 or Schedule 1 to the Criminal Procedure (Scotland) Act 1975, or has been placed on probation or discharged absolutely or conditionally for any such offence ;
 - (d) his rights and powers with respect to a child have been vested under section 2 of the Children Act 1948 or section 3 of the Child Care Act 1980 in a local authority or under section 2 of the Children Act 1948 or section 16 of the Social Work (Scotland) Act 1968 in a local authority in Scotland ;
 - (e) an order under section 1(3) or (4) of the Nurseries and Child-Minders Regulation Act 1948 has been made against him refusing, or an order has been made under section 5 of that Act cancelling, the registration of any premises occupied by him or his registration; or
 - (f) an order has been made under section 43 of the Adoption Act 1958, section 34 of the Adoption Act 1976 or section 34 of the Adoption (Scotland) Act 1978 for the removal of a protected child who was being kept or was about to be received by him,

unless he has disclosed that fact to the local authority and obtained their written consent.

- (2) Where subsection (1) above 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.

Control by local authorities of fostering

8 Power to inspect premises

Any officer of a local authority authorised to visit foster children may, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, inspect any premises in the area of the authority in the whole or any part of which foster children are to be or are being kept.

9 Power to impose requirements as to the keeping of foster children

- (1) Where a person is keeping or proposes to keep foster children in premises used (while foster children are kept in them) wholly or partly for that purpose, the local authority may impose on him requirements as to—
- (a) the number, age and sex of the foster children who may be kept at any one time in the premises or any part of them;
 - (b) the accommodation and equipment to be provided for the children;
 - (c) the medical arrangements to be made for protecting the health of the children ;
 - (d) the giving of particulars of the person for the time being in charge of the children ;
 - (e) the number, qualifications or experience of persons employed in looking after the children ;
 - (f) the keeping of records;
 - (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 in them.
- (2) A requirement imposed under this section may be limited to a particular class of foster children kept in the premises; and a requirement imposed under paragraphs (b) to (h) above may be limited by the authority so as to apply only when the number of foster children kept in the premises exceeds a specified number.
- (3) A person shall, after such time as the local authority may specify, comply with any requirement imposed on him under this section whenever a foster child is kept in the premises in question.
- (4) A requirement imposed under this section shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of his right under section 11(1) below to appeal against the requirement and of the time within which he may do so.

10 Power to prohibit the keeping of foster children

- (1) 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 (2) below.
- (2) 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.
- (3) A local authority who have imposed a prohibition on any person under subsection (2) above, 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.
- (4) Where a local authority impose a requirement on any person under section 9 above as respects any premises, they may prohibit him from keeping foster children in the premises after the time specified for compliance with the requirement unless the requirement is complied with.
- (5) A prohibition imposed under this section shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of his right under section 11(1) below to appeal against the prohibition and of the time within which he may do so.

*Proceedings***11 Appeal to juvenile court against requirement or prohibition imposed under s. 9 or 10**

- (1) A person aggrieved by a requirement imposed under section 9 above or by a prohibition imposed under section 10 above may appeal to a juvenile court—
- (a) within 14 days from the date on which he is notified of the requirement or prohibition ; or
 - (b) in the case of a prohibition imposed under section 10(2) above, within 14 days from the refusal by the local authority to accede to an application by him for the cancellation of the prohibition;
- and where the appeal is against a requirement imposed under section 9, the requirement shall not have effect while the appeal is pending.
- (2) Where the court allows an appeal under subsection (1) above, the court, instead of cancelling the requirement or prohibition—
- (a) may vary the requirement, or allow more time for compliance with it; or
 - (b) if an absolute prohibition has been imposed, may substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the local authority had power to impose under section 9 above are complied with.

- (3) Any requirement or prohibition specified or substituted under this section by the court shall be deemed for the purposes of this Act, other than this section, to have been imposed by the local authority under section 9 or (as the case may be) section 10 above.

12 Removal of foster children kept in unsuitable surroundings

- (1) If a juvenile court is satisfied, on the complaint of a local authority, that a foster child is being kept or is about to be received—
- (a) by any person who is unfit to have his care, or
 - (b) in contravention of section 7 above or of any prohibition imposed by a local authority under section 10 above, or
 - (c) in any premises or any environment detrimental or likely to be detrimental to him,

the court may make an order for his removal to a place of safety until he can be restored to a parent, relative or guardian of his, or until other arrangements can be made with respect to him.

- (2) On proof that there is imminent danger to the health or well-being of the child, the power to make an order under this section may be exercised by a justice of the peace acting on the application of a person authorised to visit foster children.
- (3) An order under this section made on the ground that a prohibition of a local authority under section 10 above has been contravened may require the removal from the premises of all the foster children kept there.
- (4) An order under this section may be executed by any person authorised to visit foster children or by any constable.
- (5) A local authority may receive into their care under section 2 of the Child Care Act 1980 any child removed under this section, whether or not the circumstances of the child are such that they fall within paragraphs (a) to (c) of subsection (1) of the said section 2 and notwithstanding that he may appear to the local authority to be over the age of 17.
- (6) Where a child is removed under this section, the local authority shall, if practicable, inform a parent or guardian of the child, or any person who acts as his guardian.

13 Search warrants

- (1) 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 of any premises, and
 - (b) that admission to those premises or that part 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 48 hours of the issue of the warrant, for the purpose of inspecting the premises.

- (2) Without prejudice to the provisions of subsection (1) above, a refusal to allow the visiting of a foster child or the inspection of any premises by a person authorised to

do so under this Act shall be treated, for the purposes of section 40 of the Children and Young Persons Act 1933 (under which a warrant authorising the search for and removal of a child may be issued on suspicion of unnecessary suffering caused to, or certain offences committed against, the child), as giving reasonable cause for such suspicion.

14 Sittings of juvenile courts, and appeals to Crown Court

- (1) Section 47(2) of the Children and Young Persons Act 1933 (which restricts the time and place at which a sitting of a juvenile court may be held and the persons who may be present at such a sitting) shall not apply to any sitting of a juvenile court in any proceedings under section 11 or 12 above.
- (2) An appeal shall lie to the Crown Court from any order made under section 11 or 12 above by a juvenile court or a justice of the peace.

Advertisements

15 Prohibition of advertisements relating to the fostering of children

- (1) No advertisement indicating that a person will undertake, or will arrange for, the care and maintenance of a child shall be published, unless it truly states that person's name and address.
- (2) The Secretary of State may by regulations prohibit the parent or guardian of any child from publishing or causing to be published any advertisement indicating that foster parents are sought for the child.
- (3) The Secretary of State may by regulations prohibit—
 - (a) a member of a class of persons specified in the regulations, or
 - (b) a person other than a person specified in the regulations, or other than a member of a class of persons so specified,
 from publishing or causing to be published any advertisement indicating that he is willing to undertake, or to arrange for, the care and maintenance of a child.
- (4) Regulations made under this section—
 - (a) may make different provision for different cases or classes of cases ; and
 - (b) may exclude specified cases or classes of cases.

Offences

16 Offences relating to foster children

- (1) A person shall be guilty of an offence if—
 - (a) being required, under any provision of this Act or of regulations made under section 4 above, to give any notice or information, he—
 - (i) fails to give the notice within the time specified in that provision, or
 - (ii) fails to give the information within a reasonable time, or
 - (iii) knowingly makes, or causes or procures another person to make, any false or misleading statement in the notice or information;
 - (b) he refuses to allow—

- (i) the visiting of any foster child by a duly authorised officer of a local authority, or
 - (ii) the inspection under section 8 above of any premises;
 - (c) he maintains a foster child in contravention of section 7 above;
 - (d) he fails to comply with any requirement imposed by a local authority under this Act or keeps any foster child in any premises in contravention of a prohibition so imposed;
 - (e) he refuses to comply with an order under this Act for the removal of any child or obstructs any person in the execution of such an order ; or
 - (f) he wilfully obstructs a person entitled to enter any premises by virtue of a warrant under section 13(1) above;
 - (g) he causes to be published or knowingly publishes an advertisement in contravention of section 15 above or of regulations made under that section.
- (2) Where subsection (1) of section 7 above applies to any person by virtue only of subsection (2) of that section he shall not be guilty of an offence under subsection (1) (c) above 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 subsection (1) of that section applies.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding £400, or both.
- (4) If any person who is required, under any provision 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.
- (5) A local authority may institute proceedings for an offence under this section.

Extension of provisions of the Act to other children

17 Extension of Act to certain school children during holidays

- (1) Where a child below the upper limit of the compulsory school age resides during school holidays in a school to which this section applies, then, if he so resides for a period exceeding two weeks, the provisions of this Act shall apply in relation to him as if section 2(2)(c) above were omitted, but subject to the modifications specified in subsection (2) below.
- (2) Where this Act applies to a child by virtue of subsection (1) above—
- (a) subsections (1) to (4) of section 5, sections 6, 9 and 10 above and section 18 below shall not apply; but
 - (b) the person undertaking the care and maintenance of children in the school during the school holidays shall, not less than two weeks before this Act first applies to a child in that school during those holidays, give written notice to the local authority that children to whom this Act applies will reside in the school during those holidays, and any such notice shall state the estimated number of the children.

- (3) A local authority may exempt any person from the duty of giving notices under this section; and any such exemption may be granted for a specified period or indefinitely, and may be revoked at any time by notice in writing given to that person.
- (4) This section applies to any school within the meaning of the Education Act 1944 which is not a school maintained by a local education authority.

18 Extension of Act to certain children above compulsory school age

Where a child is a foster child on attaining the upper limit of the compulsory school age, this Act shall apply in relation to him as it applies in relation to a foster child, until—

- (a) he would, apart from that limit, have ceased to be a foster child, or
- (b) he reaches the age of 18, or
- (c) he lives elsewhere than with the person with whom he was living when he attained the said limit,

whichever first occurs.

Miscellaneous and supplementary

19 Avoidance of insurances on lives of foster children

A person who maintains a foster child for reward shall be deemed for the purposes of the Life Assurance Act 1774 to have no interest in the life of the child.

20 Service of notices by post

Any notice or information required to be given under this Act may be given by post.

21 Regulations

Any power to make regulations conferred on the Secretary of State by this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

22 Interpretation

In this Act—

" child " means a person under the age of 18 ;

" compulsory school age " has the same meaning as in the Education Act 1944;

" local authority " means the council of a non-metropolitan county, metropolitan district or London borough, or the Common Council of the City of London ;

" local authority in Scotland " means a regional or islands council;

" place of safety " means a community home provided by a local authority, a controlled community home, a police station, or any hospital, surgery or other suitable place whose occupier is willing temporarily to receive a child;

" relative ", in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half-blood or by affinity) and includes, where the child is illegitimate, the father of the child and any person who would be a relative within the meaning of this definition if the child were the legitimate child of his mother and father ;

" voluntary organisation " means a body the activities of which are carried on otherwise than for profit.

23 Transitional provisions, consequential amendments and repeals

- (1) This Act shall have effect subject to the transitional provisions set out in Schedule 1 to this Act.
- (2) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.
- (3) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section 16 or 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

24 Citation, etc.

- (1) This Act may be cited as the Foster Children Act 1980.
- (2) This Act shall come into force on the date appointed under section 90(1) of the Child Care Act 1980 for the coming into force of that Act.
- (3) This Act (except Part II of Schedule 2 which extends only to Scotland) extends to England and Wales only.