



Children Act 1989

1989 CHAPTER 41

PART I

INTRODUCTORY

1 Welfare of the child

- (1) When a court determines any question with respect to—
 - (a) the upbringing of a child; or
 - (b) the administration of a child's property or the application of any income arising from it,the child's welfare shall be the court's paramount consideration.
- (2) In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.
- (3) In the circumstances mentioned in subsection (4), a court shall have regard in particular to—
 - (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
 - (b) his physical, emotional and educational needs;
 - (c) the likely effect on him of any change in his circumstances;
 - (d) his age, sex, background and any characteristics of his which the court considers relevant;
 - (e) any harm which he has suffered or is at risk of suffering;
 - (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
 - (g) the range of powers available to the court under this Act in the proceedings in question.
- (4) The circumstances are that—

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- (a) the court is considering whether to make, vary or discharge a section 8 order, and the making, variation or discharge of the order is opposed by any party to the proceedings; or
 - (b) the court is considering whether to make, vary or discharge an order under Part IV.
- (5) Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

2 Parental responsibility for children

- (1) Where a child's father and mother were married to each other at the time of his birth, they shall each have parental responsibility for the child.
- (2) Where a child's father and mother were not married to each other at the time of his birth—
- (a) the mother shall have parental responsibility for the child;
 - (b) the father shall not have parental responsibility for the child, unless he acquires it in accordance with the provisions of this Act.
- (3) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the Family Law Reform Act 1987 (which extends their meaning).
- (4) The rule of law that a father is the natural guardian of his legitimate child is abolished.
- (5) More than one person may have parental responsibility for the same child at the same time.
- (6) A person who has parental responsibility for a child at any time shall not cease to have that responsibility solely because some other person subsequently acquires parental responsibility for the child.
- (7) Where more than one person has parental responsibility for a child, each of them may act alone and without the other (or others) in meeting that responsibility; but nothing in this Part shall be taken to affect the operation of any enactment which requires the consent of more than one person in a matter affecting the child.
- (8) The fact that a person has parental responsibility for a child shall not entitle him to act in any way which would be incompatible with any order made with respect to the child under this Act.
- (9) A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another but may arrange for some or all of it to be met by one or more persons acting on his behalf.
- (10) The person with whom any such arrangement is made may himself be a person who already has parental responsibility for the child concerned.
- (11) The making of any such arrangement shall not affect any liability of the person making it which may arise from any failure to meet any part of his parental responsibility for the child concerned.

3 Meaning of “parental responsibility”

- (1) In this Act “parental responsibility” means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.
- (2) It also includes the rights, powers and duties which a guardian of the child’s estate (appointed, before the commencement of section 5, to act generally) would have had in relation to the child and his property.
- (3) The rights referred to in subsection (2) include, in particular, the right of the guardian to receive or recover in his own name, for the benefit of the child, property of whatever description and wherever situated which the child is entitled to receive or recover.
- (4) The fact that a person has, or does not have, parental responsibility for a child shall not affect—
 - (a) any obligation which he may have in relation to the child (such as a statutory duty to maintain the child); or
 - (b) any rights which, in the event of the child’s death, he (or any other person) may have in relation to the child’s property.
- (5) A person who—
 - (a) does not have parental responsibility for a particular child; but
 - (b) has care of the child,may (subject to the provisions of this Act) do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child’s welfare.

4 Acquisition of parental responsibility by father

- (1) Where a child’s father and mother were not married to each other at the time of his birth—
 - (a) the court may, on the application of the father, order that he shall have parental responsibility for the child; or
 - (b) the father and mother may by agreement (“a parental responsibility agreement”) provide for the father to have parental responsibility for the child.
- (2) No parental responsibility agreement shall have effect for the purposes of this Act unless—
 - (a) it is made in the form prescribed by regulations made by the Lord Chancellor; and
 - (b) where regulations are made by the Lord Chancellor prescribing the manner in which such agreements must be recorded, it is recorded in the prescribed manner.
- (3) Subject to section 12(4), an order under subsection (1)(a), or a parental responsibility agreement, may only be brought to an end by an order of the court made on the application—
 - (a) of any person who has parental responsibility for the child; or
 - (b) with leave of the court, of the child himself.
- (4) The court may only grant leave under subsection (3)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

5 Appointment of guardians

- (1) Where an application with respect to a child is made to the court by any individual, the court may by order appoint that individual to be the child's guardian if—
 - (a) the child has no parent with parental responsibility for him; or
 - (b) a residence order has been made with respect to the child in favour of a parent or guardian of his who has died while the order was in force.
- (2) The power conferred by subsection (1) may also be exercised in any family proceedings if the court considers that the order should be made even though no application has been made for it.
- (3) A parent who has parental responsibility for his child may appoint another individual to be the child's guardian in the event of his death.
- (4) A guardian of a child may appoint another individual to take his place as the child's guardian in the event of his death.
- (5) An appointment under subsection (3) or (4) shall not have effect unless it is made in writing, is dated and is signed by the person making the appointment or—
 - (a) in the case of an appointment made by a will which is not signed by the testator, is signed at the direction of the testator in accordance with the requirements of section 9 of the Wills Act 1837; or
 - (b) in any other case, is signed at the direction of the person making the appointment, in his presence and in the presence of two witnesses who each attest the signature.
- (6) A person appointed as a child's guardian under this section shall have parental responsibility for the child concerned.
- (7) Where—
 - (a) on the death of any person making an appointment under subsection (3) or (4), the child concerned has no parent with parental responsibility for him; or
 - (b) immediately before the death of any person making such an appointment, a residence order in his favour was in force with respect to the child,the appointment shall take effect on the death of that person.
- (8) Where, on the death of any person making an appointment under subsection (3) or (4)—
 - (a) the child concerned has a parent with parental responsibility for him; and
 - (b) subsection (7)(b) does not apply,the appointment shall take effect when the child no longer has a parent who has parental responsibility for him.
- (9) Subsections (1) and (7) do not apply if the residence order referred to in paragraph (b) of those subsections was also made in favour of a surviving parent of the child.
- (10) Nothing in this section shall be taken to prevent an appointment under subsection (3) or (4) being made by two or more persons acting jointly.
- (11) Subject to any provision made by rules of court, no court shall exercise the High Court's inherent jurisdiction to appoint a guardian of the estate of any child.

- (12) Where rules of court are made under subsection (11) they may prescribe the circumstances in which, and conditions subject to which, an appointment of such a guardian may be made.
- (13) A guardian of a child may only be appointed in accordance with the provisions of this section.

6 Guardians: revocation and disclaimer

- (1) An appointment under section 5(3) or (4) revokes an earlier such appointment (including one made in an unrevoked will or codicil) made by the same person in respect of the same child, unless it is clear (whether as the result of an express provision in the later appointment or by any necessary implication) that the purpose of the later appointment is to appoint an additional guardian.
- (2) An appointment under section 5(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person who made the appointment revokes it by a written and dated instrument which is signed—
 - (a) by him; or
 - (b) at his direction, in his presence and in the presence of two witnesses who each attest the signature.
- (3) An appointment under section 5(3) or (4) (other than one made in a will or codicil) is revoked if, with the intention of revoking the appointment, the person who made it—
 - (a) destroys the instrument by which it was made; or
 - (b) has some other person destroy that instrument in his presence.
- (4) For the avoidance of doubt, an appointment under section 5(3) or (4) made in a will or codicil is revoked if the will or codicil is revoked.
- (5) A person who is appointed as a guardian under section 5(3) or (4) may disclaim his appointment by an instrument in writing signed by him and made within a reasonable time of his first knowing that the appointment has taken effect.
- (6) Where regulations are made by the Lord Chancellor prescribing the manner in which such disclaimers must be recorded, no such disclaimer shall have effect unless it is recorded in the prescribed manner.
- (7) Any appointment of a guardian under section 5 may be brought to an end at any time by order of the court—
 - (a) on the application of any person who has parental responsibility for the child;
 - (b) on the application of the child concerned, with leave of the court; or
 - (c) in any family proceedings, if the court considers that it should be brought to an end even though no application has been made.

7 Welfare reports

- (1) A court considering any question with respect to a child under this Act may—
 - (a) ask a probation officer; or
 - (b) ask a local authority to arrange for—
 - (i) an officer of the authority; or

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- (ii) such other person (other than a probation officer) as the authority considers appropriate,
to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.
- (2) The Lord Chancellor may make regulations specifying matters which, unless the court orders otherwise, must be dealt with in any report under this section.
- (3) The report may be made in writing, or orally, as the court requires.
- (4) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of—
 - (a) any statement contained in the report; and
 - (b) any evidence given in respect of the matters referred to in the report, in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.
- (5) It shall be the duty of the authority or probation officer to comply with any request for a report under this section.

PART II

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

General

8 Residence, contact and other orders with respect to children

- (1) In this Act —
 - “a contact order” means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;
 - “a prohibited steps order” means an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court;
 - “a residence order” means an order settling the arrangements to be made as to the person with whom a child is to live; and
 - “a specific issue order” means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.
- (2) In this Act “a section 8 order” means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.
- (3) For the purposes of this Act “family proceedings” means any proceedings—
 - (a) under the inherent jurisdiction of the High Court in relation to children; and
 - (b) under the enactments mentioned in subsection (4),
 but does not include proceedings on an application for leave under section 100(3).

- (4) The enactments are—
- (a) Parts I, II and IV of this Act;
 - (b) the Matrimonial Causes Act 1973;
 - (c) the Domestic Violence and Matrimonial Proceedings Act 1976;
 - (d) the Adoption Act 1976;
 - (e) the Domestic Proceedings and Magistrates' Courts Act 1978;
 - (f) sections 1 and 9 of the Matrimonial Homes Act 1983;
 - (g) Part III of the Matrimonial and Family Proceedings Act 1984.

9 Restrictions on making section 8 orders

- (1) No court shall make any section 8 order, other than a residence order, with respect to a child who is in the care of a local authority.
- (2) No application may be made by a local authority for a residence order or contact order and no court shall make such an order in favour of a local authority.
- (3) A person who is, or was at any time within the last six months, a local authority foster parent of a child may not apply for leave to apply for a section 8 order with respect to the child unless—
 - (a) he has the consent of the authority;
 - (b) he is a relative of the child; or
 - (c) the child has lived with him for at least three years preceding the application.
- (4) The period of three years mentioned in subsection (3)(c) need not be continuous but must have begun not more than five years before the making of the application.
- (5) No court shall exercise its powers to make a specific issue order or prohibited steps order—
 - (a) with a view to achieving a result which could be achieved by making a residence or contact order; or
 - (b) in any way which is denied to the High Court (by section 100(2)) in the exercise of its inherent jurisdiction with respect to children.
- (6) No court shall make any section 8 order which is to have effect for a period which will end after the child has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.
- (7) No court shall make any section 8 order, other than one varying or discharging such an order, with respect to a child who has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.

10 Power of court to make section 8 orders

- (1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 8 order with respect to the child if—
 - (a) an application for the order has been made by a person who—
 - (i) is entitled to apply for a section 8 order with respect to the child; or
 - (ii) has obtained the leave of the court to make the application; or
 - (b) the court considers that the order should be made even though no such application has been made.

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- (2) The court may also make a section 8 order with respect to any child on the application of a person who—
 - (a) is entitled to apply for a section 8 order with respect to the child; or
 - (b) has obtained the leave of the court to make the application.
- (3) This section is subject to the restrictions imposed by section 9.
- (4) The following persons are entitled to apply to the court for any section 8 order with respect to a child—
 - (a) any parent or guardian of the child;
 - (b) any person in whose favour a residence order is in force with respect to the child.
- (5) The following persons are entitled to apply for a residence or contact order with respect to a child—
 - (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
 - (b) any person with whom the child has lived for a period of at least three years;
 - (c) any person who—
 - (i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;
 - (ii) in any case where the child is in the care of a local authority, has the consent of that authority; or
 - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.
- (6) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 8 order shall be entitled to do so if—
 - (a) the order was made on his application; or
 - (b) in the case of a contact order, he is named in the order.
- (7) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 8 order as may be prescribed in relation to that category of person.
- (8) Where the person applying for leave to make an application for a section 8 order is the child concerned, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application for the section 8 order.
- (9) Where the person applying for leave to make an application for a section 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to—
 - (a) the nature of the proposed application for the section 8 order;
 - (b) the applicant's connection with the child;
 - (c) any risk there might be of that proposed application disrupting the child's life to such an extent that he would be harmed by it; and
 - (d) where the child is being looked after by a local authority—
 - (i) the authority's plans for the child's future; and
 - (ii) the wishes and feelings of the child's parents.

- (10) The period of three years mentioned in subsection (5)(b) need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application.

11 General principles and supplementary provisions

- (1) In proceedings in which any question of making a section 8 order, or any other question with respect to such an order, arises, the court shall (in the light of any rules made by virtue of subsection (2))—
- (a) draw up a timetable with a view to determining the question without delay; and
 - (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.
- (2) Rules of court may—
- (a) specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and
 - (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.
- (3) Where a court has power to make a section 8 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.
- (4) Where a residence order is made in favour of two or more persons who do not themselves all live together, the order may specify the periods during which the child is to live in the different households concerned.
- (5) Where—
- (a) a residence order has been made with respect to a child; and
 - (b) as a result of the order the child lives, or is to live, with one of two parents who each have parental responsibility for him,
- the residence order shall cease to have effect if the parents live together for a continuous period of more than six months.
- (6) A contact order which requires the parent with whom a child lives to allow the child to visit, or otherwise have contact with, his other parent shall cease to have effect if the parents live together for a continuous period of more than six months.
- (7) A section 8 order may—
- (a) contain directions about how it is to be carried into effect;
 - (b) impose conditions which must be complied with by any person—
 - (i) in whose favour the order is made;
 - (ii) who is a parent of the child concerned;
 - (iii) who is not a parent of his but who has parental responsibility for him;or
 - (iv) with whom the child is living,and to whom the conditions are expressed to apply;
 - (c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period;

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- (d) make such incidental, supplemental or consequential provision as the court thinks fit.

12 Residence orders and parental responsibility

- (1) Where the court makes a residence order in favour of the father of a child it shall, if the father would not otherwise have parental responsibility for the child, also make an order under section 4 giving him that responsibility.
- (2) Where the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned that person shall have parental responsibility for the child while the residence order remains in force.
- (3) Where a person has parental responsibility for a child as a result of subsection (2), he shall not have the right—
 - (a) to consent, or refuse to consent, to the making of an application with respect to the child under section 18 of the Adoption Act 1976;
 - (b) to agree, or refuse to agree, to the making of an adoption order, or an order under section 55 of the Act of 1976, with respect to the child; or
 - (c) to appoint a guardian for the child.
- (4) Where subsection (1) requires the court to make an order under section 4 in respect of the father of a child, the court shall not bring that order to an end at any time while the residence order concerned remains in force.

13 Change of child's name or removal from jurisdiction

- (1) Where a residence order is in force with respect to a child, no person may—
 - (a) cause the child to be known by a new surname; or
 - (b) remove him from the United Kingdom;without either the written consent of every person who has parental responsibility for the child or the leave of the court.
- (2) Subsection (1)(b) does not prevent the removal of a child, for a period of less than one month, by the person in whose favour the residence order is made.
- (3) In making a residence order with respect to a child the court may grant the leave required by subsection (1)(b), either generally or for specified purposes.

14 Enforcement of residence orders

- (1) Where—
 - (a) a residence order is in force with respect to a child in favour of any person; and
 - (b) any other person (including one in whose favour the order is also in force) is in breach of the arrangements settled by that order,the person mentioned in paragraph (a) may, as soon as the requirement in subsection (2) is complied with, enforce the order under section 63(3) of the Magistrates' Courts Act 1980 as if it were an order requiring the other person to produce the child to him.
- (2) The requirement is that a copy of the residence order has been served on the other person.

- (3) Subsection (1) is without prejudice to any other remedy open to the person in whose favour the residence order is in force.

Financial relief

15 Orders for financial relief with respect to children

- (1) Schedule 1 (which consists primarily of the re-enactment, with consequential amendments and minor modifications, of provisions of the Guardianship of Minors Acts 1971 and 1973, the Children Act 1975 and of sections 15 and 16 of the Family Law Reform Act 1987) makes provision in relation to financial relief for children.
- (2) The powers of a magistrates' court under section 60 of the Magistrates' Courts Act 1980 to revoke, revive or vary an order for the periodical payment of money shall not apply in relation to an order made under Schedule 1.

Family assistance orders

16 Family assistance orders

- (1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make an order requiring—
- (a) a probation officer to be made available; or
 - (b) a local authority to make an officer of the authority available,
- to advise, assist and (where appropriate) befriend any person named in the order.
- (2) The persons who may be named in an order under this section (“a family assistance order”) are—
- (a) any parent or guardian of the child;
 - (b) any person with whom the child is living or in whose favour a contact order is in force with respect to the child;
 - (c) the child himself.
- (3) No court may make a family assistance order unless—
- (a) it is satisfied that the circumstances of the case are exceptional; and
 - (b) it has obtained the consent of every person to be named in the order other than the child.
- (4) A family assistance order may direct—
- (a) the person named in the order; or
 - (b) such of the persons named in the order as may be specified in the order,
- to take such steps as may be so specified with a view to enabling the officer concerned to be kept informed of the address of any person named in the order and to be allowed to visit any such person.
- (5) Unless it specifies a shorter period, a family assistance order shall have effect for a period of six months beginning with the day on which it is made.
- (6) Where—
- (a) a family assistance order is in force with respect to a child; and

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- (b) a section 8 order is also in force with respect to the child, the officer concerned may refer to the court the question whether the section 8 order should be varied or discharged.
- (7) A family assistance order shall not be made so as to require a local authority to make an officer of theirs available unless—
 - (a) the authority agree; or
 - (b) the child concerned lives or will live within their area.
- (8) Where a family assistance order requires a probation officer to be made available, the officer shall be selected in accordance with arrangements made by the probation committee for the area in which the child lives or will live.
- (9) If the selected probation officer is unable to carry out his duties, or dies, another probation officer shall be selected in the same manner.

PART III

LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

Provision of services for children and their families

17 Provision of services for children in need, their families and others

- (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—
 - (a) to safeguard and promote the welfare of children within their area who are in need; and
 - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,
 by providing a range and level of services appropriate to those children's needs.
- (2) For the purpose principally of facilitating the discharge of their general duty under this section, every local authority shall have the specific duties and powers set out in Part 1 of Schedule 2.
- (3) Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any member of his family, if it is provided with a view to safeguarding or promoting the child's welfare.
- (4) The Secretary of State may by order amend any provision of Part 1 of Schedule 2 or add any further duty or power to those for the time being mentioned there.
- (5) Every local authority—
 - (a) shall facilitate the provision by others (including in particular voluntary organisations) of services which the authority have power to provide by virtue of this section, or section 18, 20, 23 or 24; and
 - (b) may make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.

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- (6) The services provided by a local authority in the exercise of functions conferred on them by this section may include giving assistance in kind or, in exceptional circumstances, in cash.
- (7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).
- (8) Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of his parents.
- (9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support or family credit under the Social Security Act 1986.
- (10) For the purposes of this Part a child shall be taken to be in need if—
 - (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;
 - (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
 - (c) he is disabled,and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.
- (11) For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—
 - “development” means physical, intellectual, emotional, social or behavioural development; and
 - “health” means physical or mental health.

18 Day care for pre-school and other children

- (1) Every local authority shall provide such day care for children in need within their area who are—
 - (a) aged five or under; and
 - (b) not yet attending schools,as is appropriate.
- (2) A local authority may provide day care for children within their area who satisfy the conditions mentioned in subsection (1)(a) and (b) even though they are not in need.
- (3) A local authority may provide facilities (including training, advice, guidance and counselling) for those—
 - (a) caring for children in day care; or
 - (b) who at any time accompany such children while they are in day care.
- (4) In this section “day care” means any form of care or supervised activity provided for children during the day (whether or not it is provided on a regular basis).
- (5) Every local authority shall provide for children in need within their area who are attending any school such care or supervised activities as is appropriate—

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- (a) outside school hours; or
 - (b) during school holidays.
- (6) A local authority may provide such care or supervised activities for children within their area who are attending any school even though those children are not in need.
- (7) In this section “supervised activity” means an activity supervised by a responsible person.

19 Review of provision for day care, child minding etc

- (1) Every local authority in England and Wales shall review—
- (a) the provision which they make under section 18;
 - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight; and
 - (c) the provision for day care within their area made for children under the age of eight by persons other, than the authority, required to register under section 71(1)(b).
- (2) A review under subsection (1) shall be conducted—
- (a) together with the appropriate local education authority; and
 - (b) at least once in every review period.
- (3) Every local authority in Scotland shall, at least once in every review period, review—
- (a) the provision for day care within their area made for children under the age of eight by the local authority and by persons required to register under section 71(1)(b); and
 - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight.
- (4) In conducting any such review, the two authorities or, in Scotland, the authority shall have regard to the provision made with respect to children under the age of eight in relevant establishments within their area.
- (5) In this section—
- “relevant establishment” means any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (hospitals, schools and other establishments exempt from the registration requirements which apply in relation to the provision of day care); and
- “review period” means the period of one year beginning with the commencement of this section and each subsequent period of three years beginning with an anniversary of that commencement.
- (6) Where a local authority have conducted a review under this section they shall publish the result of the review—
- (a) as soon as is reasonably practicable;
 - (b) in such form as they consider appropriate; and
 - (c) together with any proposals they may have with respect to the matters reviewed.
- (7) The authorities conducting any review under this section shall have regard to—
- (a) any representations made to any one of them by any relevant health authority or health board; and

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- (b) any other representations which they consider to be relevant.
- (8) In the application of this section to Scotland, “day care” has the same meaning as in section 79 and “health board” has the same meaning as in the National Health Service (Scotland) Act 1978.

Provision of accommodation for children

20 Provision of accommodation for children: general

- (1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—
- (a) there being no person who has parental responsibility for him;
 - (b) his being lost or having been abandoned; or
 - (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.
- (2) Where a local authority provide accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within—
- (a) three months of being notified in writing that the child is being provided with accommodation; or
 - (b) such other longer period as may be prescribed.
- (3) Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.
- (4) A local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child’s welfare.
- (5) A local authority may provide accommodation for any person who has reached the age of sixteen but is under twenty-one in any community home which takes children who have reached the age of sixteen if they consider that to do so would safeguard or promote his welfare.
- (6) Before providing accommodation under this section, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare—
- (a) ascertain the child’s wishes regarding the provision of accommodation; and
 - (b) give due consideration (having regard to his age and understanding) to such wishes of the child as they have been able to ascertain.
- (7) A local authority may not provide accommodation under this section for any child if any person who—
- (a) has parental responsibility for him; and
 - (b) is willing and able to—
 - (i) provide accommodation for him; or
 - (ii) arrange for accommodation to be provided for him, objects.

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- (8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.
- (9) Subsections (7) and (8) do not apply while any person—
 - (a) in whose favour a residence order is in force with respect to the child; or
 - (b) who has care of the child by virtue of an order made in the exercise of the High Court’s inherent jurisdiction with respect to children,
 agrees to the child being looked after in accommodation provided by or on behalf of the local authority.
- (10) Where there is more than one such person as is mentioned in subsection (9), all of them must agree.
- (11) Subsections (7) and (8) do not apply where a child who has reached the age of sixteen agrees to being provided with accommodation under this section.

21 Provision of accommodation for children in police protection or detention or on remand, etc

- (1) Every local authority shall make provision for the reception and accommodation of children who are removed or kept away from home under Part V.
- (2) Every local authority shall receive, and provide accommodation for, children—
 - (a) in police protection whom they are requested to receive under section 46(3)(f);
 - (b) whom they are requested to receive under section 38(6) of the Police and Criminal Evidence Act 1984;
 - (c) who are—
 - (i) on remand under section 23(1) of the Children and Young Persons Act 1969; or
 - (ii) the subject of a supervision order imposing a residence requirement under section 12AA of that Act,
 and with respect to whom they are the designated authority.
- (3) Where a child has been—
 - (a) removed under Part V; or
 - (b) detained under section 38 of the Police and Criminal Evidence Act 1984,
 and he is not being provided with accommodation by a local authority or in a hospital vested in the Secretary of State, any reasonable expenses of accommodating him shall be recoverable from the local authority in whose area he is ordinarily resident.

Duties of local authorities in relation to children looked after by them

22 General duty of local authority in relation to children looked after by them

- (1) In this Act, any reference to a child who is looked after by a local authority is a reference to a child who is—
 - (a) in their care; or

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- (b) provided with accommodation by the authority in the exercise of any functions (in particular those under this Act) which stand referred to their social services committee under the Local Authority Social Services Act 1970.
- (2) In subsection (1) “accommodation” means accommodation which is provided for a continuous period of more than 24 hours.
- (3) It shall be the duty of a local authority looking after any child—
 - (a) to safeguard and promote his welfare; and
 - (b) to make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case.
- (4) Before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
 - (a) the child;
 - (b) his parents;
 - (c) any person who is not a parent of his but who has parental responsibility for him; and
 - (d) any other person whose wishes and feelings the authority consider to be relevant,regarding the matter to be decided.
- (5) In making any such decision a local authority shall give due consideration—
 - (a) having regard to his age and understanding, to such wishes and feelings of the child as they have been able to ascertain;
 - (b) to such wishes and feelings of any person mentioned in subsection (4)(b) to (d) as they have been able to ascertain; and
 - (c) to the child’s religious persuasion, racial origin and cultural and linguistic background.
- (6) If it appears to a local authority that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise their powers with respect to a child whom they are looking after in a manner which may not be consistent with their duties under this section, they may do so.
- (7) If the Secretary of State considers it necessary, for the purpose of protecting members of the public from serious injury, to give directions to a local authority with respect to the exercise of their powers with respect to a child whom they are looking after, he may give such directions to the authority.
- (8) Where any such directions are given to an authority they shall comply with them even though doing so is inconsistent with their duties under this section.

23 Provision of accommodation and maintenance by local authority for children whom they are looking after

- (1) It shall be the duty of any local authority looking after a child—
 - (a) when he is in their care, to provide accommodation for him; and
 - (b) to maintain him in other respects apart from providing accommodation for him.

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- (2) A local authority shall provide accommodation and maintenance for any child whom they are looking after by—
- (a) placing him (subject to subsection (5) and any regulations made by the Secretary of State) with—
 - (i) a family;
 - (ii) a relative of his; or
 - (iii) any other suitable person,on such terms as to payment by the authority and otherwise as the authority may determine;
 - (b) maintaining him in a community home;
 - (c) maintaining him in a voluntary home;
 - (d) maintaining him in a registered children's home;
 - (e) maintaining him in a home provided by the Secretary of State under section 82(5) on such terms as the Secretary of State may from time to time determine; or
 - (f) making such other arrangements as—
 - (i) seem appropriate to them; and
 - (ii) comply with any regulations made by the Secretary of State.
- (3) Any person with whom a child has been placed under subsection (2)(a) is referred to in this Act as a local authority foster parent unless he falls within subsection (4).
- (4) A person falls within this subsection if he is—
- (a) a parent of the child;
 - (b) a person who is not a parent of the child but who has parental responsibility for him; or
 - (c) where the child is in care and there was a residence order in force with respect to him immediately before the care order was made, a person in whose favour the residence order was made.
- (5) Where a child is in the care of a local authority, the authority may only allow him to live with a person who falls within subsection (4) in accordance with regulations made by the Secretary of State.
- (6) Subject to any regulations made by the Secretary of State for the purposes of this subsection, any local authority looking after a child shall make arrangements to enable him to live with—
- (a) a person falling within subsection (4); or
 - (b) a relative, friend or other person connected with him,
- unless that would not be reasonably practicable or consistent with his welfare.
- (7) Where a local authority provide accommodation for a child whom they are looking after, they shall, subject to the provisions of this Part and so far as is reasonably practicable and consistent with his welfare, secure that—
- (a) the accommodation is near his home; and
 - (b) where the authority are also providing accommodation for a sibling of his, they are accommodated together.
- (8) Where a local authority provide accommodation for a child whom they are looking after and who is disabled, they shall, so far as is reasonably practicable, secure that the accommodation is not unsuitable to his particular needs.

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- (9) Part II of Schedule 2 shall have effect for the purposes of making further provision as to children looked after by local authorities and in particular as to the regulations that may be made under subsections (2)(a) and (f) and (5).

Advice and assistance for certain children

24 Advice and assistance for certain children

- (1) Where a child is being looked after by a local authority, it shall be the duty of the authority to advise, assist and befriend him with a view to promoting his welfare when he ceases to be looked after by them.
- (2) In this Part “a person qualifying for advice and assistance” means a person within the area of the authority who is under twenty-one and who was, at any time after reaching the age of sixteen but while still a child—
- (a) looked after by a local authority;
 - (b) accommodated by or on behalf of a voluntary organisation;
 - (c) accommodated in a registered children’s home;
 - (d) accommodated—
 - (i) by any health authority or local education authority; or
 - (ii) in any residential care home, nursing home or mental nursing home, for a consecutive period of at least three months; or
 - (e) privately fostered,
- but who is no longer so looked after, accommodated or fostered.
- (3) Subsection (2)(d) applies even if the period of three months mentioned there began before the child reached the age of sixteen.
- (4) Where—
- (a) a local authority know that there is within their area a person qualifying for advice and assistance;
 - (b) the conditions in subsection (5) are satisfied; and
 - (c) that person has asked them for help of a kind which they can give under this section,
- they shall (if he was being looked after by a local authority or was accommodated by or on behalf of a voluntary organisation) and may (in any other case) advise and befriend him.
- (5) The conditions are that—
- (a) it appears to the authority that the person concerned is in need of advice and being befriended;
 - (b) where that person was not being looked after by the authority, they are satisfied that the person by whom he was being looked after does not have the necessary facilities for advising or befriending him.
- (6) Where as a result of this section a local authority are under a duty, or are empowered, to advise and befriend a person, they may also give him assistance.
- (7) Assistance given under subsections (1) to (6) may be in kind or, in exceptional circumstances, in cash.

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- (8) A local authority may give assistance to any person who qualifies for advice and assistance by virtue of subsection (2)(a) by—
- (a) contributing to expenses incurred by him in living near the place where he is, or will be—
 - (i) employed or seeking employment; or
 - (ii) receiving education or training; or
 - (b) making a grant to enable him to meet expenses connected with his education or training.
- (9) Where a local authority are assisting the person under subsection (8) by making a contribution or grant with respect to a course of education or training, they may—
- (a) continue to do so even though he reaches the age of twenty-one before completing the course; and
 - (b) disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.
- (10) Subsections (7) to (9) of section 17 shall apply in relation to assistance given under this section (otherwise than under subsection (8)) as they apply in relation to assistance given under that section.
- (11) Where it appears to a local authority that a person whom they have been advising and befriending under this section, as a person qualifying for advice and assistance, proposes to live, or is living, in the area of another local authority, they shall inform that other local authority.
- (12) Where a child who is accommodated—
- (a) by a voluntary organisation or in a registered children’s home;
 - (b) by any health authority or local education authority; or
 - (c) in any residential care home, nursing home or mental nursing home,
- ceases to be so accommodated, after reaching the age of sixteen, the organisation, authority or (as the case may be) person carrying on the home shall inform the local authority within whose area the child proposes to live.
- (13) Subsection (12) only applies, by virtue of paragraph (b) or (c), if the accommodation has been provided for a consecutive period of at least three months.

Secure accommodation

25 Use of accommodation for restricting liberty

- (1) Subject to the following provisions of this section, a child who is being looked after by a local authority may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty (“secure accommodation”) unless it appears—
- (a) that—
 - (i) he has a history of absconding and is likely to abscond from any other description of accommodation; and
 - (ii) if he absconds, he is likely to suffer significant harm; or
 - (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

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- (2) The Secretary of State may by regulations—
 - (a) specify a maximum period—
 - (i) beyond which a child may not be kept in secure accommodation without the authority of the court; and
 - (ii) for which the court may authorise a child to be kept in secure accommodation;
 - (b) empower the court from time to time to authorise a child to be kept in secure accommodation for such further period as the regulations may specify; and
 - (c) provide that applications to the court under this section shall be made only by local authorities.
- (3) It shall be the duty of a court hearing an application under this section to determine whether any relevant criteria for keeping a child in secure accommodation are satisfied in his case.
- (4) If a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which he may be so kept.
- (5) On any adjournment of the hearing of an application under this section, a court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.
- (6) No court shall exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless, having been informed of his right to apply for legal aid and having had the opportunity to do so, he refused or failed to apply.
- (7) The Secretary of State may by regulations provide that—
 - (a) this section shall or shall not apply to any description of children specified in the regulations;
 - (b) this section shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified;
 - (c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation.
- (8) The giving of an authorisation under this section shall not prejudice any power of any court in England and Wales or Scotland to give directions relating to the child to whom the authorisation relates.
- (9) This section is subject to section 20(8).

Supplemental

26 Review of cases and enquiries into representations

- (1) The Secretary of State may make regulations requiring the case of each child who is being looked after by a local authority to be reviewed in accordance with the provisions of the regulations.
- (2) The regulations may, in particular, make provision—
 - (a) as to the manner in which each case is to be reviewed;

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- (b) as to the considerations to which the local authority are to have regard in reviewing each case;
 - (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
 - (d) requiring the authority, before conducting any review, to seek the views of—
 - (i) the child;
 - (ii) his parents;
 - (iii) any person who is not a parent of his but who has parental responsibility for him; and
 - (iv) any other person whose views the authority consider to be relevant, including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;
 - (e) requiring the authority to consider, in the case of a child who is in their care, whether an application should be made to discharge the care order;
 - (f) requiring the authority to consider, in the case of a child in accommodation provided by the authority, whether the accommodation accords with the requirements of this Part;
 - (g) requiring the authority to inform the child, so far as is reasonably practicable, of any steps he may take under this Act;
 - (h) requiring the authority to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which they propose to make in the course, or as a result, of the review;
 - (i) requiring the authority to notify details of the result of the review and of any decision taken by them in consequence of the review to—
 - (i) the child;
 - (ii) his parents;
 - (iii) any person who is not a parent of his but who has parental responsibility for him; and
 - (iv) any other person whom they consider ought to be notified;
 - (j) requiring the authority to monitor the arrangements which they have made with a view to ensuring that they comply with the regulations.
- (3) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by—
- (a) any child who is being looked after by them or who is not being looked after by them but is in need;
 - (b) a parent of his;
 - (c) any person who is not a parent of his but who has parental responsibility for him;
 - (d) any local authority foster parent;
 - (e) such other person as the authority consider has a sufficient interest in the child's welfare to warrant his representations being considered by them,
- about the discharge by the authority of any of their functions under this Part in relation to the child.
- (4) The procedure shall ensure that at least one person who is not a member or officer of the authority takes part in—
- (a) the consideration; and

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- (b) any discussions which are held by the authority about the action (if any) to be taken in relation to the child in the light of the consideration.
- (5) In carrying out any consideration of representations under this section a local authority shall comply with any regulations made by the Secretary of State for the purpose of regulating the procedure to be followed.
- (6) The Secretary of State may make regulations requiring local authorities to monitor the arrangements that they have made with a view to ensuring that they comply with any regulations made for the purposes of subsection (5).
- (7) Where any representation has been considered under the procedure established by a local authority under this section, the authority shall—
 - (a) have due regard to the findings of those considering the representation; and
 - (b) take such steps as are reasonably practicable to notify (in writing)—
 - (i) the person making the representation;
 - (ii) the child (if they authority consider that he has sufficient understanding); and
 - (iii) such other persons (if any) as appear to the authority to be likely to be affected,of the authority's decision in the matter and their reasons for taking that decision and of any action which they have taken, or propose to take.
- (8) Every local authority shall give such publicity to their procedure for considering representations under this section as they consider appropriate.

27 Co-operation between authorities

- (1) Where it appears to a local authority that any authority or other person mentioned in subsection (3) could, by taking any specified action, help in the exercise of any of their functions under this Part, they may request the help of that other authority or person, specifying the action in question.
- (2) An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.
- (3) The persons are—
 - (a) any local authority,
 - (b) any local education authority;
 - (c) any local housing authority;
 - (d) any health authority; and
 - (e) any person authorised by the Secretary of State for the purposes of this section.
- (4) Every local authority shall assist any local education authority with the provision of services for any child within the local authority's area who has special educational needs.

28 Consultation with local education authorities

- (1) Where—
 - (a) a child is being looked after by a local authority; and

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- (b) the authority propose to provide accommodation for him in an establishment at which education is provided for children who are accommodated there, they shall, so far as is reasonably practicable, consult the appropriate local education authority before doing so.
- (2) Where any such proposal is carried out, the local authority shall, as soon as is reasonably practicable, inform the appropriate local education authority of the arrangements that have been made for the child's accommodation.
- (3) Where the child ceases to be accommodated as mentioned in subsection (1)(b), the local authority shall inform the appropriate local education authority.
- (4) In this section “the appropriate local education authority” means—
 - (a) the local education authority within whose area the local authority's area falls; or,
 - (b) where the child has special educational needs and a statement of his needs is maintained under the Education Act 1981, the local education authority who maintain the statement.

29 Recoupment of cost of providing services etc

- (1) Where a local authority provide any service under section 17 or 18, other than advice, guidance or counselling, they may recover from a person specified in subsection (4) such charge for the service as they consider reasonable.
- (2) Where the authority are satisfied that that person's means are insufficient for it to be reasonably practicable for him to pay the charge, they shall not require him to pay more than he can reasonably be expected to pay.
- (3) No person shall be liable to pay any charge under section (1) at any time when he is in receipt of income support or family credit under the Social Security Act 1986.
- (4) The persons are—
 - (a) where the service is provided for a child under sixteen, each of his parents;
 - (b) where it is provided for a child who has reached the age of sixteen, the child himself; and
 - (c) where it is provided for a member of the child's family, that member.
- (5) Any charge under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.
- (6) Part III of Schedule 2 makes provision in connection with contributions towards the maintenance of children who are being looked after by local authorities and consists of the re-enactment with modifications of provisions in Part V of the Child Care Act 1980.
- (7) Where a local authority provide any accommodation under section 20(1) for a child who was (immediately before they began to look after him) ordinarily resident within the area of another local authority, they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.
- (8) Where a local authority provide accommodation under section 21(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority and they are not maintaining him in—

- (a) a community home provided by them;
- (b) a controlled community home; or
- (c) a hospital vested in the Secretary of State,

they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

- (9) Where a local authority comply with any request under section 27(2) in relation to a child or other person who is not ordinarily resident within their area, they may recover from the local authority in whose area the child or person is ordinarily resident any expenses reasonably incurred by them in respect of that person.

30 Miscellaneous

- (1) Nothing in this Part shall affect any duty imposed on a local authority by or under any other enactment.
- (2) Any question arising under section 20(2), 21(3) or 29(7) to (9) as to the ordinary residence of a child shall be determined by agreement between the local authorities concerned or, in default of agreement, by the Secretary of State.
- (3) Where the functions conferred on a local authority by this Part and the functions of a local education authority are concurrent, the Secretary of State may by regulations provide by which authority the functions are to be exercised.
- (4) The Secretary of State may make regulations for determining, as respects any local education authority functions specified in the regulations, whether a child who is being looked after by a local authority is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.

PART IV

CARE AND SUPERVISION

General

31 Care and supervision orders

- (1) On the application of any local authority or authorised person, the court may make an order—
 - (a) placing the child with respect to whom the application is made in the care of a designated local authority; or
 - (b) putting him under the supervision of a designated local authority or of a probation officer.
- (2) A court may only make a care order or supervision order if it is satisfied—
 - (a) that the child concerned is suffering, or is likely to suffer, significant harm; and
 - (b) that the harm, or likelihood of harm, is attributable to—
 - (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
 - (ii) the child's being beyond parental control.

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- (3) No care order or supervision order may be made with respect to a child who has reached the age of seventeen (or sixteen, in the case of a child who is married).
- (4) An application under this section may be made on its own or in any other family proceedings.
- (5) The court may—
- (a) on an application for a care order, make a supervision order;
 - (b) on an application for a supervision order, make a care order.
- (6) Where an authorised person proposes to make an application under this section he shall—
- (a) if it is reasonably practicable to do so; and
 - (b) before making the application,
consult the local authority appearing to him to be the authority in whose area the child concerned is ordinarily resident.
- (7) An application made by an authorised person shall not be entertained by the court if, at the time when it is made, the child concerned is—
- (a) the subject of an earlier application for a care order, or supervision order, which has not been disposed of; or
 - (b) subject to—
 - (i) a care order or supervision order;
 - (ii) an order under section 7(7)(b) of the Children and Young Persons Act 1969; or
 - (iii) a supervision requirement within the meaning of the Social Work (Scotland) Act 1968.
- (8) The local authority designated in a care order must be—
- (a) the authority within whose area the child is ordinarily resident; or
 - (b) where the child does not reside in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the order is being made.
- (9) In this section—
- “authorised person” means—
 - (a) the National Society for the Prevention of Cruelty to Children and any of its officers; and
 - (b) any person authorised by order of the Secretary of State to bring proceedings under this section and any officer of a body which is so authorised;
 - “harm” means ill-treatment or the impairment of health or development;
 - “development” means physical, intellectual, emotional, social or behavioural development;
 - “health” means physical or mental health; and
 - “ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical.
- (10) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.

(11) In this Act—

“a care order” means (subject to section 105(1)) an order under subsection (1)(a) and (except where express provision to the contrary is made) includes an interim care order made under section 38; and

“a supervision order” means an order under subsection (1)(b) and (except where express provision to the contrary is made) includes an interim supervision order made under section 38.

32 Period within which application for order under this Part must be disposed of

(1) A court hearing an application for an order under this Part shall (in the light of any rules made by virtue of subsection (2))—

- (a) draw up a timetable with a view to disposing of the application without delay; and
- (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may—

- (a) specify periods within which specified steps must be taken in relation to such proceedings; and
- (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that they are disposed of without delay.

Care orders

33 Effect of care order

(1) Where a care order is made with respect to a child it shall be the duty of the local authority designated by the order to receive the child into their care and to keep him in their care while the order remains in force.

(2) Where—

- (a) a care order has been made with respect to a child on the application of an authorised person; but
- (b) the local authority designated by the order was not informed that that person proposed to make the application,

the child may be kept in the care of that person until received into the care of the authority.

(3) While a care order is in force with respect to a child, the local authority designated by the order shall—

- (a) have parental responsibility for the child; and
- (b) have the power (subject to the following provisions of this section) to determine the extent to which a parent or guardian of the child may meet his parental responsibility for him.

(4) The authority may not exercise the power in subsection (3)(b) unless they are satisfied that it is necessary to do so in order to safeguard or promote the child’s welfare.

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- (5) Nothing in subsection (3)(b) shall prevent a parent or guardian of the child who has care of him from doing what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting his welfare.
- (6) While a care order is in force with respect to a child, the local authority designated by the order shall not—
- (a) cause the child to be brought up in any religious persuasion other than that in which he would have been brought up if the order had not been made; or
 - (b) have the right—
 - (i) to consent or refuse to consent to the making of an application with respect to the child under section 18 of the Adoption Act 1976;
 - (ii) to agree or refuse to agree to the making of an adoption order, or an order under section 55 of the Act of 1976, with respect to the child; or
 - (iii) to appoint a guardian for the child.
- (7) While a care order is in force with respect to a child, no person may—
- (a) cause the child to be known by a new surname; or
 - (b) remove him from the United Kingdom,
- without either the written consent of every person who has parental responsibility for the child or the leave of the court.
- (8) Subsection (7)(b) does not—
- (a) prevent the removal of such a child, for a period of less than one month, by the authority in whose care he is; or
 - (b) apply to arrangements for such a child to live outside England and Wales (which are governed by paragraph 19 of Schedule 2).
- (9) The power in subsection (3)(b) is subject (in addition to being subject to the provisions of this section) to any right, duty, power, responsibility or authority which a parent or guardian of the child has in relation to the child and his property by virtue of any other enactment.

34 Parental contact etc. with children in care

- (1) Where a child is in the care of a local authority, the authority shall (subject to the provisions of this section) allow the child reasonable contact with—
- (a) his parents;
 - (b) any guardian of his;
 - (c) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made; and
 - (d) where, immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person.
- (2) On an application made by the authority or the child, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and any named person.
- (3) On an application made by—
- (a) any person mentioned in paragraphs (a) to (d) of subsection (1); or

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- (b) any person who has obtained the leave of the court to make the application, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.
- (4) On an application made by the authority or the child, the court may make an order authorising the authority to refuse to allow contact between the child and any person who is mentioned in paragraphs (a) to (d) of subsection (1) and named in the order.
- (5) When making a care order with respect to a child, or in any family proceedings in connection with a child who is in the care of a local authority, the court may make an order under this section, even though no application for such an order has been made with respect to the child, if it considers that the order should be made.
- (6) An authority may refuse to allow the contact that would otherwise be required by virtue of subsection (1) or an order under this section if—
- (a) they are satisfied that it is necessary to do so in order to safeguard or promote the child's welfare; and
 - (b) the refusal—
 - (i) is decided upon as a matter of urgency; and
 - (ii) does not last for more than seven days.
- (7) An order under this section may impose such conditions as the court considers appropriate.
- (8) The Secretary of State may by regulations make provision as to—
- (a) the steps to be taken by a local authority who have exercised their powers under subsection (6);
 - (b) the circumstances in which, and conditions subject to which, the terms of any order under this section may be departed from by agreement between the local authority and the person in relation to whom the order is made;
 - (c) notification by a local authority of any variation or suspension of arrangements made (otherwise than under an order under this section) with a view to affording any person contact with a child to whom this section applies.
- (9) The court may vary or discharge any order made under this section on the application of the authority, the child concerned or the person named in the order.
- (10) An order under this section may be made either at the same time as the care order itself or later.
- (11) Before making a care order with respect to any child the court shall—
- (a) consider the arrangements which the authority have made, or propose to make, for affording any person contact with a child to whom this section applies; and
 - (b) invite the parties to the proceedings to comment on those arrangements.

Supervision orders

35 Supervision orders

- (1) While a supervision order is in force it shall be the duty of the supervisor—
- (a) to advise, assist and befriend the supervised child;
 - (b) to take such steps as are reasonably necessary to give effect to the order; and

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- (c) where—
 - (i) the order is not wholly complied with; or
 - (ii) the supervisor considers that the order may no longer be necessary, to consider whether or not to apply to the court for its variation or discharge.
- (2) Parts I and II of Schedule 3 make further provision with respect to supervision orders.

36 Education supervision orders

- (1) On the application of any local education authority, the court may make an order putting the child with respect to whom the application is made under the supervision of a designated local education authority.
- (2) In this Act “an education supervision order” means an order under subsection (1).
- (3) A court may only make an education supervision order if it is satisfied that the child concerned is of compulsory school age and is not being properly educated.
- (4) For the purposes of this section, a child is being properly educated only if he is receiving efficient full-time education suitable to his age, ability and aptitude and any special educational needs he may have.
- (5) Where a child is—
 - (a) the subject of a school attendance order which is in force under section 37 of the Education Act 1944 and which has not been complied with; or
 - (b) a registered pupil at a school which he is not attending regularly within the meaning of section 39 of that Act,then, unless it is proved that he is being properly educated, it shall be assumed that he is not.
- (6) An education supervision order may not be made with respect to a child who is in the care of a local authority.
- (7) The local education authority designated in an education supervision order must be—
 - (a) the authority within whose area the child concerned is living or will live; or
 - (b) where—
 - (i) the child is a registered pupil at a school; and
 - (ii) the authority mentioned in paragraph (a) and the authority within whose area the school is situated agree,the latter authority.
- (8) Where a local education authority propose to make an application for an education supervision order they shall, before making the application, consult the social services committee (within the meaning of the Local Authority Social Services Act 1970) of the appropriate local authority.
- (9) The appropriate local authority is—
 - (a) in the case of a child who is being provided with accommodation by, or on behalf of, a local authority, that authority; and
 - (b) in any other case, the local authority within whose area the child concerned lives, or will live.

- (10) Part III of Schedule 3 makes further provision with respect to education supervision orders.

Powers of court

37 Powers of court in certain family proceedings

- (1) Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to him, the court may direct the appropriate authority to undertake an investigation of the child's circumstances.
- (2) Where the court gives a direction under this section the local authority concerned shall, when undertaking the investigation, consider whether they should—
- apply for a care order or for a supervision order with respect to the child;
 - provide services or assistance for the child or his family; or
 - take any other action with respect to the child.
- (3) Where a local authority undertake an investigation under this section, and decide not to apply for a care order or supervision order with respect to the child concerned, they shall inform the court of—
- their reasons for so deciding;
 - any service or assistance which they have provided, or intend to provide, for the child and his family; and
 - any other action which they have taken, or propose to take, with respect to the child.
- (4) The information shall be given to the court before the end of the period of eight weeks beginning with the date of the direction, unless the court otherwise directs.
- (5) The local authority named in a direction under subsection (1) must be—
- the authority in whose area the child is ordinarily resident; or
 - where the child does not reside in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the direction is being given.
- (6) If, on the conclusion of any investigation or review under this section, the authority decide not to apply for a care order or supervision order with respect to the child—
- they shall consider whether it would be appropriate to review the case at a later date; and
 - if they decide that it would be, they shall determine the date on which that review is to begin.

38 Interim orders

- (1) Where—
- in any proceedings on an application for a care order or supervision order, the proceedings are adjourned; or
 - the court gives a direction under section 37(1),
- the court may make an interim care order or an interim supervision order with respect to the child concerned.

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- (2) A court shall not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in section 31(2).
- (3) Where, in any proceedings on an application for a care order or supervision order, a court makes a residence order with respect to the child concerned, it shall also make an interim supervision order with respect to him unless satisfied that his welfare will be satisfactorily safeguarded without an interim order being made.
- (4) An interim order made under or by virtue of this section shall have effect for such period as may be specified in the order, but shall in any event cease to have effect on whichever of the following events first occurs—
 - (a) the expiry of the period of eight weeks beginning with the date on which the order is made;
 - (b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, the expiry of the relevant period;
 - (c) in a case which falls within subsection (1)(a), the disposal of the application;
 - (d) in a case which falls within subsection (1)(b), the disposal of an application for a care order or supervision order made by the authority with respect to the child;
 - (e) in a case which falls within subsection (1)(b) and in which—
 - (i) the court has given a direction under section 37(4), but
 - (ii) no application for a care order or supervision order has been made with respect to the child,the expiry of the period fixed by that direction.
- (5) In subsection (4)(b) “the relevant period” means—
 - (a) the period of four weeks beginning with the date on which the order in question is made; or
 - (b) the period of eight weeks beginning with the date on which the first order was made if that period ends later than the period mentioned in paragraph (a).
- (6) Where the court makes an interim care order, or interim supervision order, it may give such directions (if any) as it considers appropriate with regard to the medical or psychiatric examination or other assessment of the child; but if the child is of sufficient understanding to make an informed decision he may refuse to submit to the examination or other assessment.
- (7) A direction under subsection (6) may be to the effect that there is to be—
 - (a) no such examination or assessment; or
 - (b) no such examination or assessment unless the court directs otherwise.
- (8) A direction under subsection (6) may be—
 - (a) given when the interim order is made or at any time while it is in force; and
 - (b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.
- (9) Paragraphs 4 and 5 of Schedule 3 shall not apply in relation to an interim supervision order.
- (10) Where a court makes an order under or by virtue of this section it shall, in determining the period for which the order is to be in force, consider whether any party who was,

or might have been, opposed to the making of the order was in a position to argue his case against the order in full.

39 Discharge and variation etc. of care orders and supervision orders

- (1) A care order may be discharged by the court on the application of—
 - (a) any person who has parental responsibility for the child;
 - (b) the child himself; or
 - (c) the local authority designated by the order.
- (2) A supervision order may be varied or discharged by the court on the application of—
 - (a) any person who has parental responsibility for the child;
 - (b) the child himself; or
 - (c) the supervisor.
- (3) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person with whom the child is living, a supervision order may be varied by the court in so far as it imposes a requirement which affects that person.
- (4) Where a care order is in force with respect to a child the court may, on the application of any person entitled to apply for the order to be discharged, substitute a supervision order for the care order.
- (5) When a court is considering whether to substitute one order for another under subsection (4) any provision of this Act which would otherwise require section 31(2) to be satisfied at the time when the proposed order is substituted or made shall be disregarded.

40 Orders pending appeals in cases about care or supervision orders

- (1) Where—
 - (a) a court dismisses an application for a care order; and
 - (b) at the time when the court dismisses the application, the child concerned is the subject of an interim care order,the court may make a care order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.
- (2) Where—
 - (a) a court dismisses an application for a care order, or an application for a supervision order; and
 - (b) at the time when the court dismisses the application, the child concerned is the subject of an interim supervision order,the court may make a supervision order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.
- (3) Where a court grants an application to discharge a care order or supervision order, it may order that—
 - (a) its decision is not to have effect; or
 - (b) the care order, or supervision order, is to continue to have effect but subject to such directions as the court sees fit to include in the order.

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- (4) An order made under this section shall only have effect for such period, not exceeding the appeal period, as may be specified in the order.
- (5) Where—
- (a) an appeal is made against any decision of a court under this section; or
 - (b) any application is made to the appellate court in connection with a proposed appeal against that decision,
- the appellate court may extend the period for which the order in question is to have effect, but not so as to extend it beyond the end of the appeal period.
- (6) In this section “the appeal period” means—
- (a) where an appeal is made against the decision in question, the period between the making of that decision and the determination of the appeal; and
 - (b) otherwise, the period during which an appeal may be made against the decision.

Guardians ad litem

41 Representation of child and of his interests in certain proceedings

- (1) For the purpose of any specified proceedings, the court shall appoint a guardian ad litem for the child concerned unless satisfied that it is not necessary to do so in order to safeguard his interests.
- (2) The guardian ad litem shall—
- (a) be appointed in accordance with rules of court; and
 - (b) be under a duty to safeguard the interests of the child in the manner prescribed by such rules.
- (3) Where—
- (a) the child concerned is not represented by a solicitor; and
 - (b) any of the conditions mentioned in subsection (4) is satisfied,
- the court may appoint a solicitor to represent him.
- (4) The conditions are that—
- (a) no guardian ad litem has been appointed for the child;
 - (b) the child has sufficient understanding to instruct a solicitor and wishes to do so;
 - (c) it appears to the court that it would be in the child’s best interests for him to be represented by a solicitor.
- (5) Any solicitor appointed under or by virtue of this section shall be appointed, and shall represent the child, in accordance with rules of court.
- (6) In this section “specified proceedings” means any proceedings—
- (a) on an application for a care order or supervision order;
 - (b) in which the court has given a direction under section 37(1) and has made, or is considering whether to make, an interim care order;
 - (c) on an application for the discharge of a care order or the variation or discharge of a supervision order;
 - (d) on an application under section 39(4);

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- (e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;
 - (f) with respect to contact between a child who is the subject of a care order and any other person;
 - (g) under Part V;
 - (h) on an appeal against—
 - (i) the making of, or refusal to make, a care order, supervision order or any order under section 34;
 - (ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order; or
 - (iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in sub-paragraph (i) or (ii);
 - (iv) the refusal of an application under section 39(4); or
 - (v) the making of, or refusal to make, an order under Part V; or
 - (i) which are specified for the time being, for the purposes of this section, by rules of court.
- (7) The Secretary of State may by regulations provide for the establishment of panels of persons from whom guardians ad litem appointed under this section must be selected.
- (8) Subsection (7) shall not be taken to prejudice the power of the Lord Chancellor to confer or impose duties on the Official Solicitor under section 90(3) of the Supreme Court Act 1981.
- (9) The regulations may, in particular, make provision—
- (a) as to the constitution, administration and procedures of panels;
 - (b) requiring two or more specified local authorities to make arrangements for the joint management of a panel;
 - (c) for the defrayment by local authorities of expenses incurred by members of panels;
 - (d) for the payment by local authorities of fees and allowances for members of panels;
 - (e) as to the qualifications for membership of a panel;
 - (f) as to the training to be given to members of panels;
 - (g) as to the co-operation required of specified local authorities in the provision of panels in specified areas; and
 - (h) for monitoring the work of guardians ad litem.
- (10) Rules of court may make provision as to—
- (a) the assistance which any guardian ad litem may be required by the court to give to it;
 - (b) the consideration to be given by any guardian ad litem, where an order of a specified kind has been made in the proceedings in question, as to whether to apply for the variation or discharge of the order;
 - (c) the participation of guardians ad litem in reviews, of a kind specified in the rules, which are conducted by the court.
- (11) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of—

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- (a) any statement contained in a report made by a guardian ad litem who is appointed under this section for the purpose of the proceedings in question; and
- (b) any evidence given in respect of the matters referred to in the report, in so far as the statement or evidence is, in the opinion of the court, relevant to the question which the court is considering.

42 Right of guardian ad litem to have access to local authority records

- (1) Where a person has been appointed as a guardian ad litem under this Act he shall have the right at all reasonable times to examine and take copies of—
 - (a) any records of, or held by, a local authority which were compiled in connection with the making, or proposed making, by any person of any application under this Act with respect to the child concerned; or
 - (b) any other records of, or held by, a local authority which were compiled in connection with any functions which stand referred to their social services committee under the Local Authority Social Services Act 1970, so far as those records relate to that child.
- (2) Where a guardian ad litem takes a copy of any record which he is entitled to examine under this section, that copy or any part of it shall be admissible as evidence of any matter referred to in any—
 - (a) report which he makes to the court in the proceedings in question; or
 - (b) evidence which he gives in those proceedings.
- (3) Subsection (2) has effect regardless of any enactment or rule of law which would otherwise prevent the record in question being admissible in evidence.

PART V

PROTECTION OF CHILDREN

43 Child assessment orders

- (1) On the application of a local authority or authorised person for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that—
 - (a) the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm;
 - (b) an assessment of the state of the child’s health or development, or of the way in which he has been treated, is required to enable the applicant to determine whether or not the child is suffering, or is likely to suffer, significant harm; and
 - (c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an order under this section.
- (2) In this Act “a child assessment order” means an order under this section.
- (3) A court may treat an application under this section as an application for an emergency protection order.
- (4) No court shall make a child assessment order if it is satisfied—

- (a) that there are grounds for making an emergency protection order with respect to the child; and
 - (b) that it ought to make such an order rather than a child assessment order.
- (5) A child assessment order shall—
- (a) specify the date by which the assessment is to begin; and
 - (b) have effect for such period, not exceeding 7 days beginning with that date, as may be specified in the order.
- (6) Where a child assessment order is in force with respect to a child it shall be the duty of any person who is in a position to produce the child—
- (a) to produce him to such person as may be named in the order; and
 - (b) to comply with such directions relating to the assessment of the child as the court thinks fit to specify in the order.
- (7) A child assessment order authorises any person carrying out the assessment, or any part of the assessment, to do so in accordance with the terms of the order.
- (8) Regardless of subsection (7), if the child is of sufficient understanding to make an informed decision he may refuse to submit to a medical or psychiatric examination or other assessment.
- (9) The child may only be kept away from home—
- (a) in accordance with directions specified in the order;
 - (b) if it is necessary for the purposes of the assessment; and
 - (c) for such period or periods as may be specified in the order.
- (10) Where the child is to be kept away from home, the order shall contain such directions as the court thinks fit with regard to the contact that he must be allowed to have with other persons while away from home.
- (11) Any person making an application for a child assessment order shall take such steps as are reasonably practicable to ensure that notice of the application is given to—
- (a) the child's parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him;
 - (c) any other person caring for the child;
 - (d) any person in whose favour a contact order is in force with respect to the child;
 - (e) any person who is allowed to have contact with the child by virtue of an order under section 34; and
 - (f) the child,
- before the hearing of the application.
- (12) Rules of court may make provision as to the circumstances in which—
- (a) any of the persons mentioned in subsection (11); or
 - (b) such other person as may be specified in the rules,
- may apply to the court for a child assessment order to be varied or discharged.
- (13) In this section “authorised person” means a person who is an authorised person for the purposes of section 31.

44 Orders for emergency protection of children

- (1) Where any person (“the applicant”) applies to the court for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that—
- (a) there is reasonable cause to believe that the child is likely to suffer significant harm if—
 - (i) he is not removed to accommodation provided by or on behalf of the applicant; or
 - (ii) he does not remain in the place in which he is then being accommodated;
 - (b) in the case of an application made by a local authority—
 - (i) enquiries are being made with respect to the child under section 47(1)(b); and
 - (ii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and that the applicant has reasonable cause to believe that access to the child is required as a matter of urgency; or
 - (c) in the case of an application made by an authorised person—
 - (i) the applicant has reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm;
 - (ii) the applicant is making enquiries with respect to the child’s welfare; and
 - (iii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.
- (2) In this section—
- (a) “authorised person” means a person who is an authorised person for the purposes of section 31; and
 - (b) “a person authorised to seek access” means—
 - (i) in the case of an application by a local authority, an officer of the local authority or a person authorised by the authority to act on their behalf in connection with the enquiries; or
 - (ii) in the case of an application by an authorised person, that person.
- (3) Any person—
- (a) seeking access to a child in connection with enquiries of a kind mentioned in subsection (1); and
 - (b) purporting to be a person authorised to do so,
- shall, on being asked to do so, produce some duly authenticated document as evidence that he is such a person.
- (4) While an order under this section (“an emergency protection order”) is in force it—
- (a) operates as a direction to any person who is in a position to do so to comply with any request to produce the child to the applicant;
 - (b) authorises—
 - (i) the removal of the child at any time to accommodation provided by or on behalf of the applicant and his being kept there; or

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- (ii) the prevention of the child's removal from any hospital, or other place, in which he was being accommodated immediately before the making of the order; and
 - (c) gives the applicant parental responsibility for the child.
- (5) Where an emergency protection order is in force with respect to a child, the applicant—
 - (a) shall only exercise the power given by virtue of subsection (4)(b) in order to safeguard the welfare of the child;
 - (b) shall take, and shall only take, such action in meeting his parental responsibility for the child as is reasonably required to safeguard or promote the welfare of the child (having regard in particular to the duration of the order); and
 - (c) shall comply with the requirements of any regulations made by the Secretary of State for the purposes of this subsection.
- (6) Where the court makes an emergency protection order, it may give such directions (if any) as it considers appropriate with respect to—
 - (a) the contact which is, or is not, to be allowed between the child and any named person;
 - (b) the medical or psychiatric examination or other assessment of the child.
- (7) Where any direction is given under subsection (6)(b), the child may, if he is of sufficient understanding to make an informed decision, refuse to submit to the examination or other assessment.
- (8) A direction under subsection (6)(a) may impose conditions and one under subsection (6)(b) may be to the effect that there is to be—
 - (a) no such examination or assessment; or
 - (b) no such examination or assessment unless the court directs otherwise.
- (9) A direction under subsection (6) may be—
 - (a) given when the emergency protection order is made or at any time while it is in force; and
 - (b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.
- (10) Where an emergency protection order is in force with respect to a child and—
 - (a) the applicant has exercised the power given by subsection (4)(b)(i) but it appears to him that it is safe for the child to be returned; or
 - (b) the applicant has exercised the power given by subsection (4)(b)(ii) but it appears to him that it is safe for the child to be allowed to be removed from the place in question,he shall return the child or (as the case may be) allow him to be removed.
- (11) Where he is required by subsection (10) to return the child the applicant shall—
 - (a) return him to the care of the person from whose care he was removed; or
 - (b) if that is not reasonably practicable, return him to the care of—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) such other person as the applicant (with the agreement of the court) considers appropriate.

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- (12) Where the applicant has been required by subsection (10) to return the child, or to allow him to be removed, he may again exercise his powers with respect to the child (at any time while the emergency protection order remains in force) if it appears to him that a change in the circumstances of the case makes it necessary for him to do so.
- (13) Where an emergency protection order has been made with respect to a child, the applicant shall, subject to any direction given under subsection (6), allow the child reasonable contact with—
- (a) his parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him;
 - (c) any person with whom he was living immediately before the making of the order;
 - (d) any person in whose favour a contact order is in force with respect to him;
 - (e) any person who is allowed to have contact with the child by virtue of an order under section 34; and
 - (f) any person acting on behalf of any of those persons.
- (14) Wherever it is reasonably practicable to do so, an emergency protection order shall name the child; and where it does not name him it shall describe him as clearly as possible.
- (15) A person shall be guilty of an offence if he intentionally obstructs any person exercising the power under subsection (4)(b) to remove, or prevent the removal of, a child.
- (16) A person guilty of an offence under subsection (15) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

45 Duration of emergency protection orders and other supplemental provisions

- (1) An emergency protection order shall have effect for such period, not exceeding eight days, as may be specified in the order.
- (2) Where—
- (a) the court making an emergency protection order would, but for this subsection, specify a period of eight days as the period for which the order is to have effect; but
 - (b) the last of those eight days is a public holiday (that is to say, Christmas Day, Good Friday, a bank holiday or a Sunday),
- the court may specify a period which ends at noon on the first later day which is not such a holiday.
- (3) Where an emergency protection order is made on an application under section 46(7), the period of eight days mentioned in subsection (1) shall begin with the first day on which the child was taken into police protection under section 46.
- (4) Any person who—
- (a) has parental responsibility for a child as the result of an emergency protection order; and
 - (b) is entitled to apply for a care order with respect to the child,

may apply to the court for the period during which the emergency protection order is to have effect to be extended.

- (5) On an application under subsection (4) the court may extend the period during which the order is to have effect by such period, not exceeding seven days, as it thinks fit, but may do so only if it has reasonable cause to believe that the child concerned is likely to suffer significant harm if the order is not extended.
- (6) An emergency protection order may only be extended once.
- (7) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, a court hearing an application for, or with respect to, an emergency protection order may take account of—
- (a) any statement contained in any report made to the court in the course of, or in connection with, the hearing; or
 - (b) any evidence given during the hearing,
- which is, in the opinion of the court, relevant to the application.
- (8) Any of the following may apply to the court for an emergency protection order to be discharged—
- (a) the child;
 - (b) a parent of his;
 - (c) any person who is not a parent of his but who has parental responsibility for him; or
 - (d) any person with whom he was living immediately before the making of the order.
- (9) No application for the discharge of an emergency protection order shall be heard by the court before the expiry of the period of 72 hours beginning with the making of the order.
- (10) No appeal may be made against the making of, or refusal to make, an emergency protection order or against any direction given by the court in connection with such an order.
- (11) Subsection (8) does not apply—
- (a) where the person who would otherwise be entitled to apply for the emergency protection order to be discharged—
 - (i) was given notice (in accordance with rules of court) of the hearing at which the order was made; and
 - (ii) was present at that hearing; or
 - (b) to any emergency protection order the effective period of which has been extended under subsection (5).
- (12) A court making an emergency protection order may direct that the applicant may, in exercising any powers which he has by virtue of the order, be accompanied by a registered medical practitioner, registered nurse or registered health visitor, if he so chooses.

46 Removal and accommodation of children by police in cases of emergency

- (1) Where a constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, he may—

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

- (a) remove the child to suitable accommodation and keep him there; or
 - (b) take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which he is then being accommodated is prevented.
- (2) For the purposes of this Act, a child with respect to whom a constable has exercised his powers under this section is referred to as having been taken into police protection.
- (3) As soon as is reasonably practicable after taking a child into police protection, the constable concerned shall—
 - (a) inform the local authority within whose area the child was found of the steps that have been, and are proposed to be, taken with respect to the child under this section and the reasons for taking them;
 - (b) give details to the authority within whose area the child is ordinarily resident (“the appropriate authority”) of the place at which the child is being accommodated;
 - (c) inform the child (if he appears capable of understanding)—
 - (i) of the steps that have been taken with respect to him under this section and of the reasons for taking them; and
 - (ii) of the further steps that may be taken with respect to him under this section;
 - (d) take such steps as are reasonably practicable to discover the wishes and feelings of the child;
 - (e) secure that the case is inquired into by an officer designated for the purposes of this section by the chief officer of the police area concerned; and
 - (f) where the child was taken into police protection by being removed to accommodation which is not provided—
 - (i) by or on behalf of a local authority; or
 - (ii) as a refuge, in compliance with the requirements of section 51, secure that he is moved to accommodation which is so provided.
- (4) As soon as is reasonably practicable after taking a child into police protection, the constable concerned shall take such steps as are reasonably practicable to inform—
 - (a) the child's parents;
 - (b) every person who is not a parent of his but who has parental responsibility for him; and
 - (c) any other person with whom the child was living immediately before being taken into police protection,of the steps that he has taken under this section with respect to the child, the reasons for taking them and the further steps that may be taken with respect to him under this section.
- (5) On completing any inquiry under subsection (3)(e), the officer conducting it shall release the child from police protection unless he considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.
- (6) No child may be kept in police protection for more than 72 hours.
- (7) While a child is being kept in police protection, the designated officer may apply on behalf of the appropriate authority for an emergency protection order to be made under section 44 with respect to the child.

- (8) An application may be made under subsection (7) whether or not the authority know of it or agree to its being made.
- (9) While a child is being kept in police protection—
- (a) neither the constable concerned nor the designated officer shall have parental responsibility for him; but
 - (b) the designated officer shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be so protected).
- (10) Where a child has been taken into police protection, the designated officer shall allow—
- (a) the child's parents;
 - (b) any person who is not a parent of the child but who has parental responsibility for him;
 - (c) any person with whom the child was living immediately before he was taken into police protection;
 - (d) any person in whose favour a contact order is in force with respect to the child;
 - (e) any person who is allowed to have contact with the child by virtue of an order under section 34; and
 - (f) any person acting on behalf of any of those persons,
- to have such contact (if any) with the child as, in the opinion of the designated officer, is both reasonable and in the child's best interests.
- (11) Where a child who has been taken into police protection is in accommodation provided by, or on behalf of, the appropriate authority, subsection (10) shall have effect as if it referred to the authority rather than to the designated officer.

47 Local authority's duty to investigate

- (1) Where a local authority—
- (a) are informed that a child who lives, or is found, in their area—
 - (i) is the subject of an emergency protection order; or
 - (ii) is in police protection; or
 - (b) have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm,
- the authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare.
- (2) Where a local authority have obtained an emergency protection order with respect to a child, they shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide what action they should take to safeguard or promote the child's welfare.
- (3) The enquiries shall, in particular, be directed towards establishing—
- (a) whether the authority should make any application to the court, or exercise any of their other powers under this Act, with respect to the child;
 - (b) whether, in the case of a child—

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

- (i) with respect to whom an emergency protection order has been made; and
 - (ii) who is not in accommodation provided by or on behalf of the authority,
it would be in the child's best interests (while an emergency protection order remains in force) for him to be in such accommodation; and
 - (c) whether, in the case of a child who has been taken into police protection, it would be in the child's best interests for the authority to ask for an application to be made under section 46(7).
- (4) Where enquiries are being made under subsection (1) with respect to a child, the local authority concerned shall (with a view to enabling them to determine what action, if any, to take with respect to him) take such steps as are reasonably practicable—
- (a) to obtain access to him; or
 - (b) to ensure that access to him is obtained, on their behalf, by a person authorised by them for the purpose,
- unless they are satisfied that they already have sufficient information with respect to him.
- (5) Where, as a result of any such enquiries, it appears to the authority that there are matters connected with the child's education which should be investigated, they shall consult the relevant local education authority.
- (6) Where, in the course of enquiries made under this section—
- (a) any officer of the local authority concerned; or
 - (b) any person authorised by the authority to act on their behalf in connection with those enquiries—
 - (i) is refused access to the child concerned; or
 - (ii) is denied information as to his whereabouts,
the authority shall apply for an emergency protection order, a child assessment order, a care order or a supervision order with respect to the child unless they are satisfied that his welfare can be satisfactorily safeguarded without their doing so.
- (7) If, on the conclusion of any enquiries or review made under this section, the authority decide not to apply for an emergency protection order, a child assessment order, a care order or a supervision order they shall—
- (a) consider whether it would be appropriate to review the case at a later date; and
 - (b) if they decide that it would be, determine the date on which that review is to begin.
- (8) Where, as a result of complying with this section, a local authority conclude that they should take action to safeguard or promote the child's welfare they shall take that action (so far as it is both within their power and reasonably practicable for them to do so).
- (9) Where a local authority are conducting enquiries under this section, it shall be the duty of any person mentioned in subsection (11) to assist them with those enquiries (in particular by providing relevant information and advice) if called upon by the authority to do so.
- (10) Subsection (9) does not oblige any person to assist a local authority where doing so would be unreasonable in all the circumstances of the case.

- (11) The persons are—
- (a) any local authority;
 - (b) any local education authority;
 - (c) any local housing authority;
 - (d) any health authority; and
 - (e) any person authorised by the Secretary of State for the purposes of this section.
- (12) Where a local authority are making enquiries under this section with respect to a child who appears to them to be ordinarily resident within the area of another authority, they shall consult that other authority, who may undertake the necessary enquiries in their place.

48 Powers to assist in discovery of children who may be in need of emergency protection

- (1) Where it appears to a court making an emergency protection order that adequate information as to the child's whereabouts—
- (a) is not available to the applicant for the order; but
 - (b) is available to another person,
- it may include in the order a provision requiring that other person to disclose, if asked to do so by the applicant, any information that he may have as to the child's whereabouts.
- (2) No person shall be excused from complying with such a requirement on the ground that complying might incriminate him or his spouse of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for any offence other than perjury.
- (3) An emergency protection order may authorise the applicant to enter premises specified by the order and search for the child with respect to whom the order is made.
- (4) Where the court is satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, it may make an order authorising the applicant to search for that other child on those premises.
- (5) Where—
- (a) an order has been made under subsection (4);
 - (b) the child concerned has been found on the premises; and
 - (c) the applicant is satisfied that the grounds for making an emergency protection order exist with respect to him,
- the order shall have effect as if it were an emergency protection order.
- (6) Where an order has been made under subsection (4), the applicant shall notify the court of its effect.
- (7) A person shall be guilty of an offence if he intentionally obstructs any person exercising the power of entry and search under subsection (3) or (4).
- (8) A person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

- (9) Where, on an application made by any person for a warrant under this section, it appears to the court—
- (a) that a person attempting to exercise powers under an emergency protection order has been prevented from doing so by being refused entry to the premises concerned or access to the child concerned; or
 - (b) that any such person is likely to be so prevented from exercising any such powers,
- it may issue a warrant authorising any constable to assist the person mentioned in paragraph (a) or (b) in the exercise of those powers using reasonable force if necessary.
- (10) Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—
- (a) that person so desires; and
 - (b) the court by whom the warrant is issued does not direct otherwise.
- (11) A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or registered health visitor if he so chooses.
- (12) An application for a warrant under this section shall be made in the manner and form prescribed by rules of court.
- (13) Wherever it is reasonably practicable to do so, an order under subsection (4), an application for a warrant under this section and any such warrant shall name the child; and where it does not name him it shall describe him as clearly as possible.

49 Abduction of children in care etc

- (1) A person shall be guilty of an offence if, knowingly and without lawful authority or reasonable excuse, he—
- (a) takes a child to whom this section applies away from the responsible person;
 - (b) keeps such a child away from the responsible person; or
 - (c) induces, assists or incites such a child to run away or stay away from the responsible person.
- (2) This section applies in relation to a child who is—
- (a) in care;
 - (b) the subject of an emergency protection order; or
 - (c) in police protection,
- and in this section “the responsible person” means any person who for the time being has care of him by virtue of the care order, the emergency protection order, or section 46, as the case may be.
- (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 to a fine not exceeding level 5 on the standard scale, or to both.

50 Recovery of abducted children etc

- (1) Where it appears to the court that there is reason to believe that a child to whom this section applies—

- (a) has been unlawfully taken away or is being unlawfully kept away from the responsible person;
 - (b) has run away or is staying away from the responsible person; or
 - (c) is missing,

the court may make an order under this section (“a recovery order”).
- (2) This section applies to the same children to whom section 49 applies and in this section “the responsible person” has the same meaning as in section 49.
- (3) A recovery order—
 - (a) operates as a direction to any person who is in a position to do so to produce the child on request to any authorised person;
 - (b) authorises the removal of the child by any authorised person;
 - (c) requires any person who has information as to the child’s whereabouts to disclose that information, if asked to do so, to a constable or an officer of the court;
 - (d) authorises a constable to enter any premises specified in the order and search for the child using reasonable force if necessary.
- (4) The court may make a recovery order only on the application of—
 - (a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or
 - (b) where the child is in police protection, the designated officer.
- (5) A recovery order shall name the child and—
 - (a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or
 - (b) where the child is in police protection, the designated officer.
- (6) Premises may only be specified under subsection (3)(d) if it appears to the court that there are reasonable grounds for believing the child to be on them.
- (7) In this section—
 - “an authorised person” means—
 - (a) any person specified by the court;
 - (b) any constable;
 - (c) any person who is authorised—
 - (i) after the recovery order is made; and
 - (ii) by a person who has parental responsibility for the child by virtue of a care order or an emergency protection order,

to exercise any power under a recovery order; and

 - “the designated officer” means the officer designated for the purposes of section 46.
- (8) Where a person is authorised as mentioned in subsection (7)(c)—
 - (a) the authorisation shall identify the recovery order; and
 - (b) any person claiming to be so authorised shall, if asked to do so, produce some duly authenticated document showing that he is so authorised.
- (9) A person shall be guilty of an offence if he intentionally obstructs an authorised person exercising the power under subsection (3)(b) to remove a child.

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

- (10) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) No person shall be excused from complying with any request made under subsection (3)(c) on the ground that complying with it might incriminate him or his spouse of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for an offence other than perjury.
- (12) Where a child is made the subject of a recovery order whilst being looked after by a local authority, any reasonable expenses incurred by an authorised person in giving effect to the order shall be recoverable from the authority.
- (13) A recovery order shall have effect in Scotland as if it had been made by the Court of Session and as if that court had had jurisdiction to make it.
- (14) In this section “the court”, in relation to Northern Ireland, means a magistrates' court within the meaning of the Magistrates' Courts (Northern Ireland) Order 1981.

51 Refuges for children at risk

- (1) Where it is proposed to use a voluntary home or registered children's home to provide a refuge for children who appear to be at risk of harm, the Secretary of State may issue a certificate under this section with respect to that home.
- (2) Where a local authority or voluntary organisation arrange for a foster parent to provide such a refuge, the Secretary of State may issue a certificate under this section with respect to that foster parent.
- (3) In subsection (2) “foster parent” means a person who is, or who from time to time is, a local authority foster parent or a foster parent with whom children are placed by a voluntary organisation.
- (4) The Secretary of State may by regulations—
 - (a) make provision as to the manner in which certificates may be issued;
 - (b) impose requirements which must be complied with while any certificate is in force; and
 - (c) provide for the withdrawal of certificates in prescribed circumstances.
- (5) Where a certificate is in force with respect to a home, none of the provisions mentioned in subsection (7) shall apply in relation to any person providing a refuge for any child in that home.
- (6) Where a certificate is in force with respect to a foster parent, none of those provisions shall apply in relation to the provision by him of a refuge for any child in accordance with arrangements made by the local authority or voluntary organisation.
- (7) The provisions are—
 - (a) section 49;
 - (b) section 71 of the Social Work (Scotland) Act 1968 (harbouring children who have absconded from residential establishments etc.), so far as it applies in relation to anything done in England and Wales;

- (c) section 32(3) of the Children and Young Persons Act 1969 (compelling, persuading, inciting or assisting any person to be absent from detention, etc.), so far as it applies in relation to anything done in England and Wales;
- (d) section 2 of the Child Abduction Act 1984.

52 Rules and regulations

- (1) Without prejudice to section 93 or any other power to make such rules, rules of court may be made with respect to the procedure to be followed in connection with proceedings under this Part.
- (2) The rules may, in particular make provision—
 - (a) as to the form in which any application is to be made or direction is to be given;
 - (b) prescribing the persons who are to be notified of—
 - (i) the making, or extension, of an emergency protection order; or
 - (ii) the making of an application under section 45(4) or (8) or 46(7); and
 - (c) as to the content of any such notification and the manner in which, and person by whom, it is to be given.
- (3) The Secretary of State may by regulations provide that, where—
 - (a) an emergency protection order has been made with respect to a child;
 - (b) the applicant for the order was not the local authority within whose area the child is ordinarily resident; and
 - (c) that local authority are of the opinion that it would be in the child’s best interests for the applicant’s responsibilities under the order to be transferred to them,that authority shall (subject to their having complied with any requirements imposed by the regulations) be treated, for the purposes of this Act, as though they and not the original applicant had applied for, and been granted, the order.
- (4) Regulations made under subsection (3) may, in particular, make provision as to—
 - (a) the considerations to which the local authority shall have regard in forming an opinion as mentioned in subsection (3)(c); and
 - (b) the time at which responsibility under any emergency protection order is to be treated as having been transferred to a local authority.

PART VI

COMMUNITY HOMES

53 Provision of community homes by local authorities

- (1) Every local authority shall make such arrangements as they consider appropriate for securing that homes (“community homes”) are available—
 - (a) for the care and accommodation of children looked after by them; and
 - (b) for purposes connected with the welfare of children (whether or not looked after by them),and may do so jointly with one or more other local authorities.

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

- (2) In making such arrangements, a local authority shall have regard to the need for ensuring the availability of accommodation—
 - (a) of different descriptions; and
 - (b) which is suitable for different purposes and the requirements of different descriptions of children.
- (3) A community home may be a home—
 - (a) provided, managed, equipped and maintained by a local authority; or
 - (b) provided by a voluntary organisation but in respect of which a local authority and the organisation—
 - (i) propose that, in accordance with an instrument of management, the management, equipment and maintenance of the home shall be the responsibility of the local authority; or
 - (ii) so propose that the management, equipment and maintenance of the home shall be the responsibility of the voluntary organisation.
- (4) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the authority shall designate the home as a controlled community home.
- (5) Where a voluntary organisation are to be responsible for the management of a community home provided by the organisation, the local authority shall designate the home as an assisted community home.
- (6) Schedule 4 shall have effect for the purpose of supplementing the provisions of this Part.

54 Directions that premises be no longer used for community home

- (1) Where it appears to the Secretary of State that—
 - (a) any premises used for the purposes of a community home are unsuitable for those purposes; or
 - (b) the conduct of a community home—
 - (i) is not in accordance with regulations made by him under paragraph 4 of Schedule 4; or
 - (ii) 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.
- (2) Where—
 - (a) the Secretary of State has given a direction under subsection (1); and
 - (b) the direction has not been revoked,
 he may at any time by order revoke the instrument of management for the home concerned.
- (3) For the purposes of subsection (1), 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 home's instrument of management; and

- (c) in relation to an assisted community home, is the voluntary organisation by which the home is provided.

55 Determination of disputes relating to controlled and assisted community homes

- (1) Where any dispute relating to a controlled community home arises between the local authority specified in the home's instrument of management and—
 - (a) the voluntary organisation by which the home is provided; or
 - (b) any other local authority who have placed, or desire or are required to place, in the home a child who is looked after by them,the dispute may be referred by either party to the Secretary of State for his determination.
- (2) 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, in the home a child who is looked after by them, 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) This section applies even though the matter in dispute may be one which, under or by virtue of Part II of Schedule 4, is reserved for the decision, or is the responsibility, of—
 - (a) the local authority specified in the home's instrument of management; or
 - (b) (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.
- (6) In this Part "trust deed", in relation to a voluntary home, means any instrument (other than an instrument of management) regulating—
 - (a) the maintenance, management or conduct of the home; or
 - (b) the constitution of a body of managers or trustees of the home.

56 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 State and the local authority specified in the home's instrument of management not less than two years' notice in writing of their intention to do so.
- (2) A notice under subsection (1) shall specify the date from which the voluntary organisation intend to cease to provide the home as a community home.
- (3) Where such a notice is given and is not withdrawn before the date specified in it, the home's instrument of management shall cease to have effect on that date and the home shall then cease to be a controlled or assisted community home.

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

- (4) Where a notice is given under subsection (1) and the home’s managers give notice in writing to the Secretary of State that they are unable or unwilling to continue as its managers until the date specified in the subsection (1) notice, the Secretary of State may by order—
- (a) revoke the home’s instrument of management; and
 - (b) require the local authority who were specified in that instrument to conduct the home until—
 - (i) the date specified in the subsection (1) notice; or
 - (ii) 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 imposes a requirement under subsection (4)(b)—
- (a) nothing in the trust deed for the home shall affect the conduct of the home by the local authority;
 - (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), be treated as a controlled or assisted community home;
 - (c) 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
 - (d) on the date or earlier date specified as mentioned in subsection (4)(b) the home shall cease to be a community home.

57 Closure by local authority of controlled or assisted community home

- (1) The local authority specified in the instrument of management for a controlled or assisted community home may give—
- (a) the Secretary of State; and
 - (b) the voluntary organisation by which the home is provided,
- not less than two years' notice in writing of their intention to withdraw their designation of the home as a controlled or assisted community home.
- (2) A notice under subsection (1) shall specify the date (“the specified date”) on which the designation is to be withdrawn.
- (3) Where—
- (a) a notice is given under subsection (1) in respect of a controlled or assisted community home;
 - (b) the home’s managers give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers until the specified date; and
 - (c) the managers' notice is not withdrawn,
- the Secretary of State may by order revoke the home’s instrument of management from such date earlier than the specified date as may be specified in the order.
- (4) Before making an order under subsection (3), the Secretary of State shall consult the local authority and the voluntary organisation.

- (5) Where a notice has been given under subsection (1) and is not withdrawn, the home's instrument of management shall cease to have effect on—
- (a) the specified date; or
 - (b) where an earlier date has been specified under subsection (3), that earlier date, and the home shall then cease to be a community home.

58 Financial provisions applicable on cessation of controlled or assisted community home or disposal etc. of premises

- (1) Where—
- (a) the instrument of management for a controlled or assisted community home is revoked or otherwise ceases to have effect under section 54(2), 56(3) or (4) (a) or 57(3) or (5); or
 - (b) any premises used for the purposes of such a home are (at any time after 13th January 1987) disposed of, or put to use otherwise than for those purposes, the proprietor shall become liable to pay compensation (“the appropriate compensation”) in accordance with this section.
- (2) Where the instrument of management in force at the relevant time relates—
- (a) to a controlled community home; or
 - (b) to an assisted community home which, at any time before the instrument came into force, was a controlled community home,
- the appropriate compensation is a sum equal to that part of the value of any premises which is attributable to expenditure incurred in relation to the premises, while the home was a controlled community home, by the authority who were then the responsible authority.
- (3) Where the instrument of management in force at the relevant time relates—
- (a) to an assisted community home; or
 - (b) to a controlled community home which, at any time before the instrument came into force, was an assisted community home,
- the appropriate compensation is a sum equal to that part of the value of the premises which is attributable to the expenditure of money provided by way of grant under section 82, section 65 of the Children and Young Persons Act 1969 or section 82 of the Child Care Act 1980.
- (4) Where the home is, at the relevant time, conducted in premises which formerly were used as an approved school or were an approved probation hostel or home, the appropriate compensation is a sum equal to that part of the value of the premises 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 Children and Young Persons Act 1933; or
 - (b) of sums paid under section 51(3)(c) of the Powers of Criminal Courts Act 1973 in relation to expenditure on approved probation hostels or homes.
- (5) The appropriate compensation shall be paid—
- (a) in the case of compensation payable under subsection (2), to the authority who were the responsible authority at the relevant time; and
 - (b) in any other case, to the Secretary of State.
- (6) In this section—

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“disposal” includes the grant of a tenancy and any other conveyance, assignment, transfer, grant, variation or extinguishment of an interest in or right over land, whether made by instrument or otherwise;

“premises” means any premises or part of premises (including land) used for the purposes of the home and belonging to the proprietor;

“the proprietor” means—

- (a) the voluntary organisation by which the home is, at the relevant time, provided; or
- (b) if the premises are not, at the relevant time, vested in that organisation, the persons in whom they are vested;

“the relevant time” means the time immediately before the liability to pay arises under subsection (1); and

“the responsible authority” means the local authority specified in the instrument of management in question.

- (7) For the purposes of this section an event of a kind mentioned in subsection (1)(b) shall be taken to have occurred—
 - (a) in the case of a disposal, on the date on which the disposal was completed or, in the case of a disposal which is effected by a series of transactions, the date on which the last of those transactions was completed;
 - (b) in the case of premises which are put to different use, on the date on which they first begin to be put to their new use.
- (8) The amount of any sum payable under this section shall be determined in accordance with such arrangements—
 - (a) as may be agreed between the voluntary organisation by which the home is, at the relevant time, provided and the responsible authority 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.
- (9) With the agreement of the responsible authority or (as the case may be) the Secretary of State, the liability to pay any sum under this section may be discharged, in whole or in part, by the transfer of any premises.
- (10) This section has effect regardless of—
 - (a) anything in any trust deed for a controlled or assisted community home;
 - (b) the provisions of any enactment or instrument governing the disposition of the property of a voluntary organisation.

PART VII

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

59 Provision of accommodation by voluntary organisations

- (1) Where a voluntary organisation provide accommodation for a child, they shall do so by—
 - (a) placing him (subject to subsection (2)) with—
 - (i) a family;
 - (ii) a relative of his; or

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- (iii) any other suitable person,
on such terms as to payment by the organisation and otherwise as the organisation may determine;
 - (b) maintaining him in a voluntary home;
 - (c) maintaining him in a community home;
 - (d) maintaining him in a registered children's home;
 - (e) maintaining him in a home provided by the Secretary of State under section 82(5) on such terms as the Secretary of State may from time to time determine; or
 - (f) making such other arrangements (subject to subsection (3)) as seem appropriate to them.
- (2) The Secretary of State may make regulations as to the placing of children with foster parents by voluntary organisations and the regulations may, in particular, make provision which (with any necessary modifications) is similar to the provision that may be made under section 23(2)(a).
- (3) The Secretary of State may make regulations as to the arrangements which may be made under subsection (1)(f) and the regulations may in particular make provision which (with any necessary modifications) is similar to the provision that may be made under section 23(2)(f).
- (4) The Secretary of State may make regulations requiring any voluntary organisation who are providing accommodation for a child—
 - (a) to review his case; and
 - (b) to consider any representations (including any complaint) made to them by any person falling within a prescribed class of person,in accordance with the provisions of the regulations.
- (5) Regulations under subsection (4) may in particular make provision which (with any necessary modifications) is similar to the provision that may be made under section 26.
- (6) Regulations under subsections (2) to (4) may provide that any person who, without reasonable excuse, contravenes or fails to comply with a regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

60 Registration and regulation of voluntary homes

- (1) No voluntary home shall be carried on unless it is registered in a register to be kept for the purposes of this section by the Secretary of State.
- (2) The register may be kept by means of a computer.
- (3) In this Act “voluntary home” means any home or other institution providing care and accommodation for children which is carried on by a voluntary organisation but does not include—
 - (a) a nursing home, mental nursing home or residential care home;
 - (b) a school;
 - (c) any health service hospital;
 - (d) any community home;

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- (e) any home or other institution provided, equipped and maintained by the Secretary of State; or
 - (f) any home which is exempted by regulations made for the purposes of this section by the Secretary of State.
- (4) Schedule 5 shall have effect for the purpose of supplementing the provisions of this Part.

61 Duties of voluntary organisations

- (1) Where a child is accommodated by or on behalf of a voluntary organisation, it shall be the duty of the organisation—
- (a) to safeguard and promote his welfare;
 - (b) to make such use of the services and facilities available for children cared for by their own parents as appears to the organisation reasonable in his case; and
 - (c) to advise, assist and befriend him with a view to promoting his welfare when he ceases to be so accommodated.
- (2) Before making any decision with respect to any such child the organisation shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child;
 - (b) his parents;
 - (c) any person who is not a parent of his but who has parental responsibility for him; and
 - (d) any other person whose wishes and feelings the organisation consider to be relevant,
- regarding the matter to be decided.
- (3) In making any such decision the organisation shall give due consideration—
- (a) having regard to the child's age and understanding, to such wishes and feelings of his as they have been able to ascertain;
 - (b) to such other wishes and feelings mentioned in subsection (2) as they have been able to ascertain; and
 - (c) to the child's religious persuasion, racial origin and cultural and linguistic background.

62 Duties of local authorities

- (1) Every local authority shall satisfy themselves that any voluntary organisation providing accommodation—
- (a) within the authority's area for any child; or
 - (b) outside that area for any child on behalf of the authority,
- are satisfactorily safeguarding and promoting the welfare of the children so provided with accommodation.
- (2) Every local authority shall arrange for children who are accommodated within their area by or on behalf of voluntary organisations to be visited, from time to time, in the interests of their welfare.
- (3) The Secretary of State may make regulations—

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- (a) requiring every child who is accommodated within a local authority's area, by or on behalf of a voluntary organisation, to be visited by an officer of the authority—
 - (i) in prescribed circumstances; and
 - (ii) on specified occasions or within specified periods; and
 - (b) imposing requirements which must be met by any local authority, or officer of a local authority, carrying out functions under this section.
- (4) Subsection (2) does not apply in relation to community homes.
- (5) Where a local authority are not satisfied that the welfare of any child who is accommodated by or on behalf of a voluntary organisation is being satisfactorily safeguarded or promoted they shall—
- (a) unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) a relative of his; and
 - (b) consider the extent to which (if at all) they should exercise any of their functions with respect to the child.
- (6) Any person authorised by a local authority may, for the purpose of enabling the authority to discharge their duties under this section—
- (a) enter, at any reasonable time, and inspect any premises in which children are being accommodated as mentioned in subsection (1) or (2);
 - (b) inspect any children there;
 - (c) require any person to furnish him with such records of a kind required to be kept by regulations made under paragraph 7 of Schedule 5 (in whatever form they are held), or allow him to inspect such records, as he may at any time direct.
- (7) Any person exercising the power conferred by subsection (6) shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (8) Any person authorised to exercise the power to inspect records conferred by subsection (6)—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such assistance as he may reasonably require.
- (9) Any person who intentionally obstructs another in the exercise of any power conferred by subsection (6) or (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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PART VIII

REGISTERED CHILDREN’S HOMES

63 Children not to be cared for and accommodated in unregistered children’s homes

- (1) No child shall be cared for and provided with accommodation in a children’s home unless the home is registered under this Part.
- (2) The register may be kept by means of a computer.
- (3) For the purposes of this Part, “a children’s home”—
 - (a) means a home which provides (or usually provides or is intended to provide) care and accommodation wholly or mainly for more than three children at any one time; but
 - (b) does not include a home which is exempted by or under any of the following provisions of this section or by regulations made for the purposes of this subsection by the Secretary of State.
- (4) A child is not cared for and accommodated in a children’s home when he is cared for and accommodated by—
 - (a) a parent of his;
 - (b) a person who is not a parent of his but who has parental responsibility for him; or
 - (c) any relative of his.
- (5) A home is not a children’s home for the purposes of this Part if it is—
 - (a) a community home;
 - (b) a voluntary home;
 - (c) a residential care home, nursing home or mental nursing home;
 - (d) a health service hospital;
 - (e) a home provided, equipped and maintained by the Secretary of State; or
 - (f) a school (but subject to subsection (6)).
- (6) An independent school is a children’s home if—
 - (a) it provides accommodation for not more than fifty children; and
 - (b) it is not approved by the Secretary of State under section 11(3)(a) of the Education Act 1981.
- (7) A child shall not be treated as cared for and accommodated in a children’s home when—
 - (a) any person mentioned in subsection (4)(a) or (b) is living at the home; or
 - (b) the person caring for him is doing so in his personal capacity and not in the course of carrying out his duties in relation to the home.
- (8) In this Act “a registered children’s home” means a children’s home registered under this Part.
- (9) In this section “home” includes any institution.
- (10) Where any child is at any time cared for and accommodated in a children’s home which is not a registered children’s home, the person carrying on the home shall be—

- (a) guilty of an offence; and
 - (b) liable to a fine not exceeding level 5 on the standard scale,
- unless he has a reasonable excuse.

- (11) Schedule 6 shall have effect with respect to children's homes.
- (12) Schedule 7 shall have effect for the purpose of setting out the circumstances in which a person may foster more than three children without being treated as carrying on a children's home.

64 Welfare of children in children's homes

- (1) Where a child is accommodated in a children's home, it shall be the duty of the person carrying on the home to—
- (a) safeguard and promote the child's welfare;
 - (b) make such use of the services and facilities available for children cared for by their own parents as appears to that person reasonable in the case of the child; and
 - (c) advise, assist and befriend him with a view to promoting his welfare when he ceases to be so accommodated.
- (2) Before making any decision with respect to any such child the person carrying on the home shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child;
 - (b) his parents;
 - (c) any other person who is not a parent of his but who has parental responsibility for him; and
 - (d) any person whose wishes and feelings the person carrying on the home considers to be relevant,
- regarding the matter to be decided.
- (3) In making any such decision the person concerned shall give due consideration—
- (a) having regard to the child's age and understanding, to such wishes and feelings of his as he has been able to ascertain;
 - (b) to such other wishes and feelings mentioned in subsection (2) as he has been able to ascertain; and
 - (c) to the child's religious persuasion, racial origin and cultural and linguistic background.
- (4) Section 62, except subsection (4), shall apply in relation to any person who is carrying on a children's home as it applies in relation to any voluntary organisation.

65 Persons disqualified from carrying on, or being employed in, children's homes

- (1) A person who is disqualified (under section 68) from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in, a children's home unless he has—
- (a) disclosed to the responsible authority the fact that he is so disqualified; and
 - (b) obtained their written consent.
- (2) No person shall employ a person who is so disqualified in a children's home unless he has—

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- (a) disclosed to the responsible authority the fact that that person is so disqualified; and
 - (b) obtained their written consent.
- (3) Where an authority refuse to give their consent under this section, they shall inform the applicant by a written notice which states—
- (a) the reason for the refusal;
 - (b) the applicant’s right to appeal against the refusal to a Registered Homes Tribunal under paragraph 8 of Schedule 6; and
 - (c) the time within which he may do so.
- (4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (5) Where a person contravenes subsection (2) he shall not be guilty of an offence if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified under section 68.

PART IX

PRIVATE ARRANGEMENTS FOR FOSTERING CHILDREN

66 Privately fostered children

- (1) In this Part—
- (a) “a privately fostered child” means a child who is under the age of sixteen and who is cared for, and provided with accommodation by, someone other than—
 - (i) a parent of his;
 - (ii) a person who is not a parent of his but who has parental responsibility for him; or
 - (iii) a relative of his; and
 - (b) “to foster a child privately” means to look after the child in circumstances in which he is a privately fostered child as defined by this section.
- (2) A child is not a privately fostered child if the person caring for and accommodating him—
- (a) has done so for a period of less than 28 days; and
 - (b) does not intend to do so for any longer period.
- (3) Subsection (1) is subject to—
- (a) the provisions of section 63; and
 - (b) the exceptions made by paragraphs 1 to 5 of Schedule 8.
- (4) In the case of a child who is disabled, subsection (1)(a) shall have effect as if for “sixteen” there were substituted “eighteen”.
- (5) Schedule 8 shall have effect for the purposes of supplementing the provision made by this Part.

67 Welfare of privately fostered children

- (1) It shall be the duty of every local authority to satisfy themselves that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted and to secure that such advice is given to those caring for them as appears to the authority to be needed.
- (2) The Secretary of State may make regulations—
 - (a) requiring every child who is privately fostered within a local authority's area to be visited by an officer of the authority—
 - (i) in prescribed circumstances; and
 - (ii) on specified occasions or within specified periods; and
 - (b) imposing requirements which are to be met by any local authority, or officer of a local authority, in carrying out functions under this section.
- (3) Where any person who is authorised by a local authority to visit privately fostered children has reasonable cause to believe that—
 - (a) any privately fostered child is being accommodated in premises within the authority's area; or
 - (b) it is proposed to accommodate any such child in any such premises,he may at any reasonable time inspect those premises and any children there.
- (4) Any person exercising the power under subsection (3) shall, if so required, produce some duly authenticated document showing his authority to do so.
- (5) Where a local authority are not satisfied that the welfare of any child who is privately fostered within their area is being satisfactorily safeguarded or promoted they shall—
 - (a) unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) a relative of his; and
 - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

68 Persons disqualified from being private foster parents

- (1) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if he is disqualified from doing so by regulations made by the Secretary of State for the purposes of this section.
- (2) The regulations may, in particular, provide for a person to be so disqualified where—
 - (a) an order of a kind specified in the regulations has been made at any time with respect to him;
 - (b) an order of a kind so specified has been made at any time with respect to any child who has been in his care;
 - (c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;
 - (d) he has been convicted of any offence of a kind so specified, or has been placed on probation or discharged absolutely or conditionally for any such offence;

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- (e) a prohibition has been imposed on him at any time under section 69 or under any other specified enactment;
 - (f) his rights and powers with respect to a child have at any time been vested in a specified authority under a specified enactment.
- (3) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if—
- (a) he lives in the same household as a person who is himself prevented from fostering a child by subsection (1); or
 - (b) he lives in a household at which any such person is employed.
- (4) Where an authority refuse to give their consent under this section, they shall inform the applicant by a written notice which states—
- (a) the reason for the refusal;
 - (b) the applicant’s right under paragraph 8 of Schedule 8 to appeal against the refusal; and
 - (c) the time within which he may do so.
- (5) In this section—
- “the appropriate authority” means the local authority within whose area it is proposed to foster the child in question; and
 - “enactment” means any enactment having effect, at any time, in any part of the United Kingdom.

69 Power to prohibit private fostering

- (1) This section applies where a person—
- (a) proposes to foster a child privately; or
 - (b) is fostering a child privately.
- (2) Where the local authority for the area within which the child is proposed to be, or is being, fostered are of the opinion that—
- (a) he is not a suitable person to foster a child;
 - (b) the premises in which the child will be, or is being, accommodated are not suitable; or
 - (c) it would be prejudicial to the welfare of the child for him to be, or continue to be, accommodated by that person in those premises,
- the authority may impose a prohibition on him under subsection (3).
- (3) A prohibition imposed on any person under this subsection may prohibit him from fostering privately—
- (a) any child in any premises within the area of the local authority; or
 - (b) any child in premises specified in the prohibition;
 - (c) a child identified in the prohibition, in premises specified in the prohibition.
- (4) A local authority who have imposed a prohibition on any person under subsection (3) may, if they think fit, cancel the prohibition—
- (a) of their own motion; or
 - (b) on an application made by that person,
- if they are satisfied that the prohibition is no longer justified.

- (5) Where a local authority impose a requirement on any person under paragraph 6 of Schedule 8, they may also impose a prohibition on him under subsection (3).
- (6) Any prohibition imposed by virtue of subsection (5) shall not have effect unless—
 - (a) the time specified for compliance with the requirement has expired; and
 - (b) the requirement has not been complied with.
- (7) 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—
 - (a) the reason for imposing the prohibition;
 - (b) his right under paragraph 8 of Schedule 8 to appeal against the prohibition; and
 - (c) the time within which he may do so.

70 Offences

- (1) A person shall be guilty of an offence if—
 - (a) being required, under any provision made by or under this Part, to give any notice or information—
 - (i) he fails without reasonable excuse to give the notice within the time specified in that provision; or
 - (ii) he fails without reasonable excuse to give the information within a reasonable time; or
 - (iii) he makes, or causes or procures another person to make, any statement in the notice or information which he knows to be false or misleading in a material particular;
 - (b) he refuses to allow a privately fostered child to be visited by a duly authorised officer of a local authority;
 - (c) he intentionally obstructs another in the exercise of the power conferred by section 67(3);
 - (d) he contravenes section 68;
 - (e) he fails without reasonable excuse to comply with any requirement imposed by a local authority under this Part;
 - (f) he accommodates a privately fostered child in any premises in contravention of a prohibition imposed by a local authority under this Part;
 - (g) he knowingly causes to be published, or publishes, an advertisement which he knows contravenes paragraph 10 of Schedule 8.
- (2) Where a person contravenes section 68(3), he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable ground for believing, that any person to whom section 68(1) applied was living or employed in the premises in question.
- (3) A person guilty of an offence under subsection (1)(a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under subsection (1)(b), (c) or (g) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person guilty of an offence under subsection (1)(d) or (f) shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

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- (6) A person guilty of an offence under subsection (1)(e) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) If any person who is required, under any provision of this Part, to give a notice fails to give the notice within the time specified in that provision, 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.
- (8) Subsection (7) is not affected by anything in section 127(1) of the Magistrates' Courts Act 1980 (time limit for proceedings).

PART X

CHILD MINDING AND DAY CARE FOR YOUNG CHILDREN

71 Registration

- (1) Every local authority shall keep a register of—
 - (a) persons who act as child minders on domestic premises within the authority's area; and
 - (b) persons who provide day care for children under the age of eight on premises (other than domestic premises) within that area.
- (2) For the purposes of this Part—
 - (a) a person acts as a child minder if—
 - (i) he looks after one or more children under the age of eight, for reward; and
 - (ii) the period, or the total of the periods, which he spends so looking after children in any day exceeds two hours; and
 - (b) a person does not provide day care for children unless the period, or the total of the periods, during which children are looked after exceeds two hours in any day.
- (3) Where a person provides day care for children under the age of eight on different premises situated within the area of the same local authority, that person shall be separately registered with respect to each of those premises.
- (4) A person who—
 - (a) is the parent, or a relative, of a child;
 - (b) has parental responsibility for a child; or
 - (c) is a foster parent of a child,
 does not act as a child minder for the purposes of this Part when looking after that child.
- (5) Where a person is employed as a nanny for a child, she does not act as a child minder when looking after that child wholly or mainly in the home of the person so employing her.
- (6) Where a person is so employed by two different employers, she does not act as a child minder when looking after any of the children concerned wholly or mainly in the home of either of her employers.

- (7) A local authority may refuse to register an applicant for registration under subsection (1)(a) if they are satisfied that—
- (a) the applicant; or
 - (b) any person looking after, or likely to be looking after, any children on any premises on which the applicant is, or is likely to be, child minding, is not fit to look after children under the age of eight.
- (8) A local authority may refuse to register an applicant for registration under subsection (1)(a) if they are satisfied that—
- (a) any person living, or likely to be living, at any premises on which the applicant is, or is likely to be, child minding; or
 - (b) any person employed, or likely to be employed, on those premises, is not fit to be in the proximity of children under the age of eight.
- (9) A local authority may refuse to register an applicant for registration under subsection (1)(b) if they are satisfied that any person looking after, or likely to be looking after, any children on the premises to which the application relates is not fit to look after children under the age of eight.
- (10) A local authority may refuse to register an applicant for registration under subsection (1)(b) if they are satisfied that—
- (a) any person living, or likely to be living, at the premises to which the application relates; or
 - (b) any person employed, or likely to be employed, on those premises, is not fit to be in the proximity of children under the age of eight.
- (11) A local authority may refuse to register an applicant for registration under this section if they are satisfied—
- (a) in the case of an application under subsection (1)(a), that any premises on which the applicant is, or is likely to be, child minding; or
 - (b) in the case of an application under subsection (1)(b), that the premises to which the application relates,
- are not fit to be used for looking after children under the age of eight, whether because of their condition or the condition of any equipment used on the premises or for any reason connected with their situation, construction or size.
- (12) In this section—
- “domestic premises” means any premises which are wholly or mainly used as a private dwelling;
- “premises” includes any vehicle.
- (13) For the purposes of this Part a person acts as a nanny for a child if she is employed to look after the child by—
- (a) a parent of the child;
 - (b) a person who is not a parent of the child but who has parental responsibility for him; or
 - (c) a person who is a relative of the child and who has assumed responsibility for his care.
- (14) For the purposes of this section, a person fosters a child if—
- (a) he is a local authority foster parent in relation to the child;

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- (b) he is a foster parent with whom the child has been placed by a voluntary organisation; or
 - (c) he fosters the child privately.
- (15) Any register kept under this section—
- (a) shall be open to inspection by members of the public at all reasonable times; and
 - (b) may be kept by means of a computer.
- (16) Schedule 9 shall have effect for the purpose of making further provision with respect to registration under this section including, in particular, further provision for exemption from the requirement to be registered and provision for disqualification.

72 Requirements to be complied with by child minders

- (1) Where a local authority register a person under section 71(1)(a), they shall impose such reasonable requirements on him as they consider appropriate in his case.
- (2) In imposing requirements on him, the authority shall—
- (a) specify the maximum number of children, or the maximum number of children within specified age groups, whom he may look after when acting as a child minder;
 - (b) require him to secure that any premises on which he so looks after any child, and the equipment used in those premises, are adequately maintained and kept safe;
 - (c) require him to keep a record of the name and address of—
 - (i) any child so looked after by him on any premises within the authority's area;
 - (ii) any person who assists in looking after any such child; and
 - (iii) any person living, or likely at any time to be living, at those premises;
 - (d) require him to notify the authority in writing of any change in the persons mentioned in paragraph (c)(ii) and (iii).
- (3) The Secretary of State may by regulations make provision as to—
- (a) requirements which must be imposed by local authorities under this section in prescribed circumstances;
 - (b) requirements of such descriptions as may be prescribed which must not be imposed by local authorities under this section.
- (4) In determining the maximum number of children to be specified under subsection (2) (a), the authority shall take account of the number of other children who may at any time be on any premises on which the person concerned acts, or is likely to act, as a child minder.
- (5) Where, in addition to the requirements mentioned in subsection (2), a local authority impose other requirements, those other requirements must not be incompatible with any of the subsection (2) requirements.
- (6) A local authority may at any time vary any requirement imposed under this section, impose any additional requirement or remove any requirement.

73 Requirements to be complied with by persons providing day care for young children

- (1) Where a local authority register a person under section 71(1)(b) they shall impose such reasonable requirements on him as they consider appropriate in his case.
- (2) Where a person is registered under section 71(1)(b) with respect to different premises within the area of the same authority, this section applies separately in relation to each registration.
- (3) In imposing requirements on him, the authority shall—
 - (a) specify the maximum number of children, or the maximum number of children within specified age groups, who may be looked after on the premises;
 - (b) require him to secure that the premises, and the equipment used in them, are adequately maintained and kept safe;
 - (c) require him to notify the authority of any change in the facilities which he provides or in the period during which he provides them;
 - (d) specify the number of persons required to assist in looking after children on the premises;
 - (e) require him to keep a record of the name and address of—
 - (i) any child looked after on the registered premises;
 - (ii) any person who assists in looking after any such child; and
 - (iii) any person who lives, or is likely at any time to be living, at those premises;
 - (f) require him to notify the authority of any change in the persons mentioned in paragraph (e)(ii) and (iii).
- (4) The Secretary of State may by regulations make provision as to—
 - (a) requirements which must be imposed by local authorities under this section in prescribed circumstances;
 - (b) requirements of such descriptions as may be prescribed which must not be imposed by local authorities under this section.
- (5) In subsection (3), references to children looked after are to children looked after in accordance with the provision of day care made by the registered person.
- (6) In determining the maximum number of children to be specified under subsection (3) (a), the authority shall take account of the number of other children who may at any time be on the premises.
- (7) Where, in addition to the requirements mentioned in subsection (3), a local authority impose other requirements, those other requirements must not be incompatible with any of the subsection (3) requirements.
- (8) A local authority may at any time vary any requirement imposed under this section, impose any additional requirement or remove any requirement.

74 Cancellation of registration

- (1) A local authority may at any time cancel the registration of any person under section 71(1)(a) if—

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

- (a) it appears to them that the circumstances of the case are such that they would be justified in refusing to register that person as a child minder;
 - (b) the care provided by that person when looking after any child as a child minder is, in the opinion of the authority, seriously inadequate having regard to the needs of that child; or
 - (c) that person has—
 - (i) contravened, or failed to comply with, any requirement imposed on him under section 72; or
 - (ii) failed to pay any annual fee under paragraph 7 of Schedule 9 within the prescribed time.
- (2) A local authority may at any time cancel the registration of any person under section 71(1)(b) with respect to particular premises if—
- (a) it appears to them that the circumstances of the case are such that they would be justified in refusing to register that person with respect to those premises;
 - (b) the day care provided by that person on those premises is, in the opinion of the authority, seriously inadequate having regard to the needs of the children concerned; or
 - (c) that person has—
 - (i) contravened, or failed to comply with, any requirement imposed on him under section 73; or
 - (ii) failed to pay any annual fee under paragraph 7 of Schedule 9 within the prescribed time.
- (3) A local authority may at any time cancel all registrations of any person under section 71(1)(b) if it appears to them that the circumstances of the case are such that they would be justified in refusing to register that person with respect to any premises.
- (4) Where a requirement to carry out repairs or make alterations or additions has been imposed on a registered person under section 72 or 73, his registration shall not be cancelled on the ground that the premises are not fit to be used for looking after children if—
- (a) the time set for complying with the requirements has not expired, and
 - (b) it is shown that the condition of the premises is due to the repairs not having been carried out or the alterations or additions not having been made.
- (5) Any cancellation under this section must be in writing.
- (6) In considering the needs of any child for the purposes of subsection (1)(b) or (2)(b), a local authority shall, in particular, have regard to the child's religious persuasion, racial origin and cultural and linguistic background.

75 Protection of children in an emergency

- (1) If—
- (a) a local authority apply to the court for an order—
 - (i) cancelling a registered person's registration;
 - (ii) varying any requirement imposed on a registered person under section 72 or 73; or
 - (iii) removing a requirement or imposing an additional requirement on such a person; and

- (b) it appears to the court that a child who is being, or may be, looked after by that person, or (as the case may be) in accordance with the provision for day care made by that person, is suffering, or is likely to suffer, significant harm, the court may make the order.
- (2) Any such cancellation, variation, removal or imposition shall have effect from the date on which the order is made.
- (3) An application under subsection (1) may be made *ex parte* and shall be supported by a written statement of the authority's reasons for making it.
- (4) Where an order is made under this section, the authority shall serve on the registered person, as soon as is reasonably practicable after the making of the order—
 - (a) notice of the order and of its terms; and
 - (b) a copy of the statement of the authority's reasons which supported their application for the order.
- (5) Where the court imposes or varies any requirement under subsection (1), the requirement, or the requirement as varied, shall be treated for all purposes, other than those of section 77, as if it had been imposed under section 72 or (as the case may be) 73 by the authority concerned.

76 Inspection

- (1) Any person authorised to do so by a local authority may at any reasonable time enter—
 - (a) any domestic premises within the authority's area on which child minding is at any time carried on; or
 - (b) any premises within their area on which day care for children under the age of eight is at any time provided.
- (2) Where a local authority have reasonable cause to believe that a child is being looked after on any premises within their area in contravention of this Part, any person authorised to do so by the authority may enter those premises at any reasonable time.
- (3) Any person entering premises under this section may inspect—
 - (a) the premises;
 - (b) any children being looked after on the premises;
 - (c) the arrangements made for their welfare; and
 - (d) any records relating to them which are kept as a result of this Part.
- (4) Every local authority shall exercise their power to inspect the premises mentioned in subsection (1) at least once every year.
- (5) Any person inspecting any records under this section—
 - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is, or has been, in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such reasonable assistance as he may require.

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

- (6) A person exercising any power conferred by this section shall, if so required, produce some duly authenticated document showing his authority to do so.
- (7) Any person who intentionally obstructs another in the exercise of any such power shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

77 Appeals

- (1) Not less than 14 days before—
 - (a) refusing an application for registration under section 71;
 - (b) cancelling any such registration;
 - (c) refusing consent under paragraph 2 of Schedule 9;
 - (d) imposing, removing or varying any requirement under section 72 or 73; or
 - (e) refusing to grant any application for the variation or removal of any such requirement,the authority concerned shall send to the applicant, or (as the case may be) registered person, notice in writing of their intention to take the step in question (“the step”).
- (2) Every such notice shall—
 - (a) give the authority’s reasons for proposing to take the step; and
 - (b) inform the person concerned of his rights under this section.
- (3) Where the recipient of such a notice informs the authority in writing of his desire to object to the step being taken, the authority shall afford him an opportunity to do so.
- (4) Any objection made under subsection (3) may be made in person or by a representative.
- (5) If the authority, after giving the person concerned an opportunity to object to the step being taken, decide nevertheless to take it they shall send him written notice of their decision.
- (6) A person aggrieved by the taking of any step mentioned in subsection (1) may appeal against it to the court.
- (7) Where the court imposes or varies any requirement under subsection (8) or (9) the requirement, or the requirement as varied, shall be treated for all purposes (other than this section) as if it had been imposed by the authority concerned.
- (8) Where the court allows an appeal against the refusal or cancellation of any registration under section 71 it may impose requirements under section 72 or (as the case may be) 73.
- (9) Where the court allows an appeal against such a requirement it may, instead of cancelling the requirement, vary it.
- (10) In Scotland, an appeal under subsection (6) shall be by summary application to the sheriff and shall be brought within 21 days from the date of the step to which the appeal relates.
- (11) A step of a kind mentioned in subsection (1)(b) or (d) shall not take effect until the expiry of the time within which an appeal may be brought under this section or, where such an appeal is brought, before its determination.

78 Offences

- (1) No person shall provide day care for children under the age of eight on any premises within the area of a local authority unless he is registered by the authority under section 71(1)(b) with respect to those premises.
- (2) If any person contravenes subsection (1) without reasonable excuse, he shall be guilty of an offence.
- (3) No person shall act as a child minder on domestic premises within the area of a local authority unless he is registered by the authority under section 71(1)(a).
- (4) Where it appears to a local authority that a person has contravened subsection (3), they may serve a notice (“an enforcement notice”) on him.
- (5) An enforcement notice shall have effect for a period of one year beginning with the date on which it is served.
- (6) If a person with respect to whom an enforcement notice is in force contravenes subsection (3) without reasonable excuse he shall be guilty of an offence.
- (7) Subsection (6) applies whether or not the subsequent contravention occurs within the area of the authority who served the enforcement notice.
- (8) Any person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement imposed on him under section 72 or 73 shall be guilty of an offence.
- (9) If any person—
 - (a) acts as a child minder on domestic premises at any time when he is disqualified by regulations made under paragraph 2 of Schedule 9; or
 - (b) contravenes any of sub-paragraphs (3) to (5) of paragraph 2,he shall be guilty of an offence.
- (10) Where a person contravenes sub-paragraph (3) of paragraph 2 he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable grounds for believing, that the person in question was living or employed in the household.
- (11) Where a person contravenes sub-paragraph (5) of paragraph 2 he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified.
- (12) A person guilty of an offence under this section shall be liable on summary conviction—
 - (a) in the case of an offence under subsection (8), to a fine not exceeding level 4 on the standard scale;
 - (b) in the case of an offence under subsection (9), to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both; and
 - (c) in the case of any other offence, to a fine not exceeding level 5 on the standard scale.

79 Application of this Part to Scotland

In the application to Scotland of this Part—

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

- (a) “the court” means the sheriff;
- (b) “day care” means any form of care or of activity supervised by a responsible person provided for children during the day (whether or not it is provided on a regular basis);
- (c) “education authority” has the same meaning as in the Education (Scotland) Act 1980;
- (d) “local authority foster parent” means a foster parent with whom a child is placed by a local authority;
- (e) for references to a person having parental responsibility for a child there shall be substituted references to a person in whom parental rights and duties relating to the child are vested; and
- (f) for references to fostering a child privately there shall be substituted references to maintaining a foster child within the meaning of the Foster Children (Scotland) Act 1984.

PART XI

SECRETARY OF STATE’S SUPERVISORY FUNCTIONS AND RESPONSIBILITIES

80 Inspection of children’s homes etc. by persons authorised by Secretary of State

- (1) The Secretary of State may cause to be inspected from time to time any—
- (a) children’s home;
 - (b) premises in which a child who is being looked after by a local authority is living;
 - (c) premises in which a child who is being accommodated by or on behalf of a local education authority or voluntary organisation is living;
 - (d) premises in which a child who is being accommodated by or on behalf of a health authority is living;
 - (e) premises in which a child is living with a person with whom he has been placed by an adoption agency;
 - (f) premises in which a child who is a protected child is, or will be, living;
 - (g) premises in which a privately fostered child, or child who is treated as a foster child by virtue of paragraph 9 of Schedule 8, is living or in which it is proposed that he will live;
 - (h) premises on which any person is acting as a child minder;
 - (i) premises with respect to which a person is registered under section 71(1)(b);
 - (j) residential care home, nursing home or mental nursing home required to be registered under the Registered Homes Act 1984 and used to accommodate children;
 - (k) premises which are provided by a local authority and in which any service is provided by that authority under Part III;
 - (l) independent school providing accommodation for any child;
- (2) An inspection under this section shall be conducted by a person authorised to do so by the Secretary of State.

- (3) An officer of a local authority shall not be so authorised except with the consent of that authority.
- (4) The Secretary of State may require any person of a kind mentioned in subsection (5) to furnish him with such information, or allow him to inspect such records (in whatever form they are held), relating to—
 - (a) any premises to which subsection (1) or, in relation to Scotland, subsection (1) (h) or (i) applies;
 - (b) any child who is living in any such premises;
 - (c) the discharge by the Secretary of State of any of his functions under this Act; or
 - (d) the discharge by any local authority of any of their functions under this Act, as the Secretary of State may at any time direct.
- (5) The persons are any—
 - (a) local authority;
 - (b) voluntary organisation;
 - (c) person carrying on a children’s home;
 - (d) proprietor of an independent school;
 - (e) person fostering any privately fostered child or providing accommodation for a child on behalf of a local authority, local education authority, health authority or voluntary organisation;
 - (f) local education authority providing accommodation for any child;
 - (g) person employed in a teaching or administrative capacity at any educational establishment (whether or not maintained by a local education authority) at which a child is accommodated on behalf of a local authority or local education authority;
 - (h) person who is the occupier of any premises in which any person acts as a child minder (within the meaning of Part X) or provides day care for young children (within the meaning of that Part);
 - (i) person carrying on any home of a kind mentioned in subsection (1)(j).
- (6) Any person inspecting any home or other premises under this section may—
 - (a) inspect the children there; and
 - (b) make such examination into the state and management of the home or premises and the treatment of the children there as he thinks fit.
- (7) Any person authorised by the Secretary of State to exercise the power to inspect records conferred by subsection (4)—
 - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such reasonable assistance as he may require.

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

- (8) A person authorised to inspect any premises under this section shall have a right to enter the premises for that purpose, and for any purpose specified in subsection (4), at any reasonable time.
- (9) Any person exercising that power shall, if so required, produce some duly authenticated document showing his authority to do so.
- (10) Any person who intentionally obstructs another in the exercise of that power shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) The Secretary of State may by order provide for subsections (1), (4) and (6) not to apply in relation to such homes, or other premises, as may be specified in the order.
- (12) Without prejudice to section 104, any such order may make different provision with respect to each of those subsections.

81 Inquiries

- (1) The Secretary of State may cause an inquiry to be held into any matter connected with—
 - (a) the functions of the social services committee of a local authority, in so far as those functions relate to children;
 - (b) the functions of an adoption agency;
 - (c) the functions of a voluntary organisation, in so far as those functions relate to children;
 - (d) a registered children’s home or voluntary home;
 - (e) a residential care home, nursing home or mental nursing home, so far as it provides accommodation for children;
 - (f) a home provided by the Secretary of State under section 82(5);
 - (g) the detention of a child under section 53 of the Children and Young Persons Act 1933.
- (2) Before an inquiry is begun, the Secretary of State may direct that it shall be held in private.
- (3) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.
- (4) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section.
- (5) In this section “functions” includes powers and duties which a person has otherwise than by virtue of any enactment.

82 Financial support by Secretary of State

- (1) The Secretary of State may (with the consent of the Treasury) defray or contribute towards—
 - (a) any fees or expenses incurred by any person undergoing approved child care training;

- (b) any fees charged, or expenses incurred, by any person providing approved child care training or preparing material for use in connection with such training; or
 - (c) the cost of maintaining any person undergoing such training.
- (2) The Secretary of State may make grants to local authorities in respect of expenditure incurred by them in providing secure accommodation in community homes other than assisted community homes.
- (3) Where—
 - (a) a grant has been made under subsection (2) with respect to any secure accommodation; but
 - (b) the grant is not used for the purpose for which it was made or the accommodation is not used as, or ceases to be used as, secure accommodation, the Secretary of State may (with the consent of the Treasury) require the authority concerned to repay the grant, in whole or in part.
- (4) The Secretary of State may make grants to voluntary organisations towards—
 - (a) expenditure incurred by them in connection with the establishment, maintenance or improvement of voluntary homes which, at the time when the expenditure was incurred—
 - (i) were assisted community homes; or
 - (ii) were designated as such; or
 - (b) expenses incurred in respect of the borrowing of money to defray any such expenditure.
- (5) The Secretary of State may arrange for the provision, equipment and maintenance of homes for the accommodation of children who are in need of particular facilities and services which—
 - (a) are or will be provided in those homes; and
 - (b) in the opinion of the Secretary of State, are unlikely to be readily available in community homes.
- (6) In this Part—
 - “child care training” means training undergone by any person with a view to, or in the course of—
 - (a) his employment for the purposes of any of the functions mentioned in section 83(9) or in connection with the adoption of children or with the accommodation of children in a residential care home, nursing home or mental nursing home; or
 - (b) his employment by a voluntary organisation for similar purposes;
 - “approved child care training” means child care training which is approved by the Secretary of State; and
 - “secure accommodation” means accommodation provided for the purpose of restricting the liberty of children.
- (7) Any grant made under this section shall be of such amount, and shall be subject to such conditions, as the Secretary of State may (with the consent of the Treasury) determine.

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

83 Research and returns of information

- (1) The Secretary of State may conduct, or assist other persons in conducting, research into any matter connected with—
 - (a) his functions, or the functions of local authorities, under the enactments mentioned in subsection (9);
 - (b) the adoption of children; or
 - (c) the accommodation of children in a residential care home, nursing home or mental nursing home.
- (2) Any local authority may conduct, or assist other persons in conducting, research into any matter connected with—
 - (a) their functions under the enactments mentioned in subsection (9);
 - (b) the adoption of children; or
 - (c) the accommodation of children in a residential care home, nursing home or mental nursing home.
- (3) Every local authority shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to—
 - (a) the performance by the local authority of all or any of their functions—
 - (i) under the enactments mentioned in subsection (9); or
 - (ii) in connection with the accommodation of children in a residential care home, nursing home or mental nursing home; and
 - (b) the children in relation to whom the authority have exercised those functions.
- (4) Every voluntary organisation shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to children accommodated by them or on their behalf.
- (5) The Secretary of State may direct the clerk of each magistrates' court to which the direction is expressed to relate to transmit—
 - (a) to such person as may be specified in the direction; and
 - (b) at such times and in such form as he may direct,such particulars as he may require with respect to proceedings of the court which relate to children.
- (6) The Secretary of State shall in each year lay before Parliament a consolidated and classified abstract of the information transmitted to him under subsections (3) to (5).
- (7) The Secretary of State may institute research designed to provide information on which requests for information under this section may be based.
- (8) The Secretary of State shall keep under review the adequacy of the provision of child care training and for that purpose shall receive and consider any information from or representations made by—
 - (a) the Central Council for Education and Training in Social Work;
 - (b) such representatives of local authorities as appear to him to be appropriate; or
 - (c) such other persons or organisations as appear to him to be appropriate,concerning the provision of such training.
- (9) The enactments are—
 - (a) this Act;

- (b) the Children and Young Persons Acts 1933 to 1969;
- (c) section 116 of the Mental Health Act 1983 (so far as it relates to children looked after by local authorities);
- (d) section 10 of the Mental Health (Scotland) Act 1984 (so far as it relates to children for whom local authorities have responsibility).

84 Local authority failure to comply with statutory duty: default power of Secretary of State

- (1) If the Secretary of State is satisfied that any local authority has failed, without reasonable excuse, to comply with any of the duties imposed on them by or under this Act he may make an order declaring that authority to be in default with respect to that duty.
- (2) An order under subsection (1) shall give the Secretary of State's reasons for making it.
- (3) An order under subsection (1) may contain such directions for the purpose of ensuring that the duty is complied with, within such period as may be specified in the order, as appear to the Secretary of State to be necessary.
- (4) Any such direction shall, on the application of the Secretary of State, be enforceable by mandamus.

PART XII

MISCELLANEOUS AND GENERAL

Notification of children accommodated in certain establishments

85 Children accommodated by health authorities and local education authorities

- (1) Where a child is provided with accommodation by any health authority or local education authority ("the accommodating authority")—
 - (a) for a consecutive period of at least three months; or
 - (b) with the intention, on the part of that authority, of accommodating him for such a period,the accommodating authority shall notify the responsible authority.
- (2) Where subsection (1) applies with respect to a child, the accommodating authority shall also notify the responsible authority when they cease to accommodate the child.
- (3) In this section "the responsible authority" means—
 - (a) the local authority appearing to the accommodating authority to be the authority within whose area the child was ordinarily resident immediately before being accommodated; or
 - (b) where it appears to the accommodating authority that a child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.
- (4) Where a local authority have been notified under this section, they shall—

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

- (a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the accommodating authority; and
- (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

86 Children accommodated in residential care, nursing or mental nursing homes

- (1) Where a child is provided with accommodation in any residential care home, nursing home or mental nursing home—
 - (a) for a consecutive period of at least three months; or
 - (b) with the intention, on the part of the person taking the decision to accommodate him, of accommodating him for such period,the person carrying on the home shall notify the local authority within whose area the home is carried on.
- (2) Where subsection (1) applies with respect to a child, the person carrying on the home shall also notify that authority when he ceases to accommodate the child in the home.
- (3) Where a local authority have been notified under this section, they shall—
 - (a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated in the home; and
 - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.
- (4) If the person carrying on any home fails, without reasonable excuse, to comply with this section he shall be guilty of an offence.
- (5) A person authorised by a local authority may enter any residential care home, nursing home or mental nursing home within the authority's area for the purpose of establishing whether the requirements of this section have been complied with.
- (6) Any person who intentionally obstructs another in the exercise of the power of entry shall be guilty of an offence.
- (7) Any person exercising the power of entry shall, if so required, produce some duly authenticated document showing his authority to do so.
- (8) Any person committing an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

87 Welfare of children accommodated in independent schools

- (1) It shall be the duty of—
 - (a) the proprietor of any independent school which provides accommodation for any child; and
 - (b) any person who is not the proprietor of such a school but who is responsible for conducting it,to safeguard and promote the child's welfare.
- (2) Subsection (1) does not apply in relation to a school which is a children's home or a residential care home.

- (3) Where accommodation is provided for a child by an independent school within the area of a local authority, the authority shall take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the school.
- (4) Where a local authority are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school within their area, they shall notify the Secretary of State.
- (5) Any person authorised by a local authority may, for the purpose of enabling the authority to discharge their duty under this section, enter at any reasonable time any independent school within their area which provides accommodation for any child.
- (6) Any person entering an independent school in exercise of the power conferred by subsection (5) may carry out such inspection of premises, children and records as is prescribed by regulations made by the Secretary of State for the purposes of this section.
- (7) Any person exercising that power shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (8) Any person authorised by the regulations to inspect records—
 - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
to afford him such assistance as he may reasonably require.
- (9) Any person who intentionally obstructs another in the exercise of any power conferred by this section or the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this section “proprietor” has the same meaning as in the Education Act 1944.

Adoption

88 Amendments of adoption legislation

- (1) The Adoption Act 1976 shall have effect subject to the amendments made by Part I of Schedule 10.
- (2) The Adoption (Scotland) Act 1978 shall have effect subject to the amendments made by Part II of Schedule 10.

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

Paternity tests

89 Tests to establish paternity

In section 20 of the Family Law Reform Act 1969 (power of court to require use of tests to determine paternity), the following subsections shall be inserted after subsection (1)

“(1A) Where—

- (a) an application is made for a direction under this section; and
- (b) the person whose paternity is in issue is under the age of eighteen when the application is made,

the application shall specify who is to carry out the tests.

(1B) In the case of a direction made on an application to which subsection (1A) applies the court shall—

- (a) specify, as the person who is to carry out the tests, the person specified in the application; or
- (b) where the court considers that it would be inappropriate to specify that person (whether because to specify him would be incompatible with any provision made by or under regulations made under section 22 of this Act or for any other reason), decline to give the direction applied for.”

Criminal care and supervision orders

90 Care and supervision orders in criminal proceedings

(1) The power of a court to make an order under subsection (2) of section 1 of the Children and Young Persons Act 1969 (care proceedings in juvenile courts) where it is of the opinion that the condition mentioned in paragraph (f) of that subsection (“the offence condition”) is satisfied is hereby abolished.

(2) The powers of the court to make care orders—

- (a) under section 7(7)(a) of the Children and Young Persons Act 1969 (alteration in treatment of young offenders etc.); and
- (b) under section 15(1) of that Act, on discharging a supervision order made under section 7(7)(b) of that Act,

are hereby abolished.

(3) The powers given by that Act to include requirements in supervision orders shall have effect subject to amendments made by Schedule 12.

Effect and duration of orders etc.

91 Effect and duration of orders etc

(1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

- (2) The making of a care order with respect to a child who is the subject of any section 8 order discharges that order.
- (3) The making of a care order with respect to a child who is the subject of a supervision order discharges that other order.
- (4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.
- (5) The making of a care order with respect to a child who is the subject of a school attendance order made under section 37 of the Education Act 1944 discharges the school attendance order.
- (6) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.
- (7) Any order made under section 4(1) or 5(1) shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (8) Any—
 - (a) agreement under section 4; or
 - (b) appointment under section 5(3) or (4),shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (9) An order under Schedule 1 has effect as specified in that Schedule.
- (10) A section 8 order shall, if it would otherwise still be in force, cease to have effect when the child reaches the age of sixteen, unless it is to have effect beyond that age by virtue of section 9(6).
- (11) Where a section 8 order has effect with respect to a child who has reached the age of sixteen, it shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.
- (12) Any care order, other than an interim care order, shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (13) Any order made under any other provision of this Act in relation to a child shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.
- (14) On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.
- (15) Where an application (“the previous application”) has been made for—
 - (a) the discharge of a care order;
 - (b) the discharge of a supervision order;
 - (c) the discharge of an education supervision order;
 - (d) the substitution of a supervision order for a care order; or
 - (e) a child assessment order,no further application of a kind mentioned in paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the

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disposal of the previous application and the making of the further application exceeds six months.

(16) Subsection (15) does not apply to applications made in relation to interim orders.

(17) Where—

- (a) a person has made an application for an order under section 34;
- (b) the application has been refused; and
- (c) a period of less than six months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless he has obtained the leave of the court.

Jurisdiction and procedure etc.

92 Jurisdiction of courts

- (1) The name “domestic proceedings”, given to certain proceedings in magistrates' courts, is hereby changed to “family proceedings” and the names “domestic court” and “domestic court panel” are hereby changed to “family proceedings court” and “family panel”, respectively.
- (2) Proceedings under this Act shall be treated as family proceedings in relation to magistrates' courts.
- (3) Subsection (2) is subject to the provisions of section 65(1) and (2) of the Magistrates' Courts Act 1980 (proceedings which may be treated as not being family proceedings), as amended by this Act.
- (4) A magistrates' court shall not be competent to entertain any application, or make any order, involving the administration or application of—
 - (a) any property belonging to or held in trust for a child; or
 - (b) the income of any such property.
- (5) The powers of a magistrates' court under section 63(2) of the Act of 1980 to suspend or rescind orders shall not apply in relation to any order made under this Act.
- (6) Part I of Schedule 11 makes provision, including provision for the Lord Chancellor to make orders, with respect to the jurisdiction of courts and justices of the peace in relation to—
 - (a) proceedings under this Act; and
 - (b) proceedings under certain other enactments.
- (7) For the purposes of this Act “the court” means the High Court, a county court or a magistrates' court.
- (8) Subsection (7) is subject to the provision made by or under Part I of Schedule 11 and to any express provision as to the jurisdiction of any court made by any other provision of this Act.
- (9) The Lord Chancellor may by order make provision for the principal registry of the Family Division of the High Court to be treated as if it were a county court for such purposes of this Act, or of any provision made under this Act, as may be specified in the order.

- (10) Any order under subsection (9) may make such provision as the Lord Chancellor thinks expedient for the purpose of applying (with or without modifications) provisions which apply in relation to the procedure in county courts to the principal registry when it acts as if it were a county court.
- (11) Part II of Schedule 11 makes amendments consequential on this section.

93 Rules of court

- (1) An authority having power to make rules of court may make such provision for giving effect to—
- (a) this Act;
 - (b) the provisions of any statutory instrument made under this Act; or
 - (c) any amendment made by this Act in any other enactment,
- as appears to that authority to be necessary or expedient.
- (2) The rules may, in particular, make provision—
- (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);
 - (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
 - (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
 - (d) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a magistrates' court to relevant proceedings in such a court brought otherwise than on a complaint;
 - (e) with respect to preliminary hearings;
 - (f) for the service outside the United Kingdom, in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a magistrates' court;
 - (g) for the exercise by magistrates' courts, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is outside England and Wales);
 - (h) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings;
 - (i) authorising a single justice to discharge the functions of a magistrates' court with respect to such relevant proceedings as may be prescribed;
 - (j) authorising a magistrates' court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.

- (3) In subsection (2)—

“notice of proceedings” means a summons or such other notice of proceedings as is required; and “given”, in relation to a summons, means “served”;

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“prescribed” means prescribed by the rules; and

“relevant proceedings” means any application made, or proceedings brought, under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) and any part of such proceedings.

- (4) This section and any other power in this Act to make rules of court are not to be taken as in any way limiting any other power of the authority in question to make rules of court.
- (5) When making any rules under this section an authority shall be subject to the same requirements as to consultation (if any) as apply when the authority makes rules under its general rule making power.

94 Appeals

- (1) An appeal shall lie to the High Court against—
 - (a) the making by a magistrates' court of any order under this Act; or
 - (b) any refusal by a magistrates' court to make such an order.
- (2) Where a magistrates' court has power, in relation to any proceedings under this Act, to decline jurisdiction because it considers that the case can more conveniently be dealt with by another court, no appeal shall lie against any exercise by that magistrates' court of that power.
- (3) Subsection (1) does not apply in relation to an interim order for periodical payments made under Schedule 1.
- (4) On an appeal under this section, the High Court may make such orders as may be necessary to give effect to its determination of the appeal.
- (5) Where an order is made under subsection (4) the High Court may also make such incidental or consequential orders as appear to it to be just.
- (6) Where an appeal from a magistrates' court relates to an order for the making of periodical payments, the High Court may order that its determination of the appeal shall have effect from such date as it thinks fit to specify in the order.
- (7) The date so specified must not be earlier than the earliest date allowed in accordance with rules of court made for the purposes of this section.
- (8) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, the High Court reduces the amount of those payments or discharges the order—
 - (a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as the High Court thinks fit; and
 - (b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.
- (9) Any order of the High Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes—
 - (a) of the enforcement of the order; and
 - (b) of any power to vary, revive or discharge orders,

be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the High Court.

- (10) The Lord Chancellor may by order make provision as to the circumstances in which appeals may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11.
- (11) Except to the extent provided for in any order made under subsection (10), no appeal may be made against any decision of a kind mentioned in that subsection.

95 Attendance of child at hearing under Part IV or V

- (1) In any proceedings in which a court is hearing an application for an order under Part IV or V, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.
- (2) The power conferred by subsection (1) shall be exercised in accordance with rules of court.
- (3) Subsections (4) to (6) apply where—
 - (a) an order under subsection (1) has not been complied with; or
 - (b) the court has reasonable cause to believe that it will not be complied with.
- (4) The court may make an order authorising a constable, or such person as may be specified in the order—
 - (a) to take charge of the child and to bring him to the court; and
 - (b) to enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises.
- (5) The court may order any person who is in a position to do so to bring the child to the court.
- (6) Where the court has reason to believe that a person has information about the whereabouts of the child it may order him to disclose it to the court.

96 Evidence given by, or with respect to, children

- (1) Subsection (2) applies where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath.
- (2) The child's evidence may be heard by the court if, in its opinion—
 - (a) he understands that it is his duty to speak the truth; and
 - (b) he has sufficient understanding to justify his evidence being heard.
- (3) The Lord Chancellor may by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.
- (4) An order under subsection (3) may only be made with respect to—
 - (a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and
 - (b) evidence in connection with the upbringing, maintenance or welfare of a child.
- (5) An order under subsection (3)—

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- (a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;
 - (b) may make different provision for different purposes and in relation to different descriptions of court; and
 - (c) may make such amendments and repeals in any enactment relating to evidence (other than in this Act) as the Lord Chancellor considers necessary or expedient in consequence of the provision made by the order.
- (6) Subsection (5)(b) is without prejudice to section 104(4).
- (7) In this section—
“civil proceedings” and “court” have the same meaning as they have in the Civil Evidence Act 1968 by virtue of section 18 of that Act; and
“prescribed” means prescribed by an order under subsection (3).

97 Privacy for children involved in certain proceedings

- (1) Rules made under section 144 of the Magistrates' Courts Act 1980 may make provision for a magistrates' court to sit in private in proceedings in which any powers under this Act may be exercised by the court with respect to any child.
- (2) No person shall publish any material which is intended, or likely, to identify—
(a) any child as being involved in any proceedings before a magistrates' court in which any power under this Act may be exercised by the court with respect to that or any other child; or
(b) an address or school as being that of a child involved in any such proceedings.
- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.
- (4) The court or the Secretary of State may, if satisfied that the welfare of the child requires it, by order dispense with the requirements of subsection (2) to such extent as may be specified in the order.
- (5) For the purposes of this section—
“publish” includes—
(a) broadcast by radio, television or cable television; or
(b) cause to be published; and
“material” includes any picture or representation.
- (6) Any person who contravenes this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (7) Subsection (1) is without prejudice to—
(a) the generality of the rule making power in section 144 of the Act of 1980; or
(b) any other power of a magistrates' court to sit in private.
- (8) Section 71 of the Act of 1980 (newspaper reports of certain proceedings) shall apply in relation to any proceedings to which this section applies subject to the provisions of this section.

98 Self-incrimination

- (1) In any proceedings in which a court is hearing an application for an order under Part IV or V, no person shall be excused from—
 - (a) giving evidence on any matter; or
 - (b) answering any question put to him in the course of his giving evidence, on the ground that doing so might incriminate him or his spouse of an offence.
- (2) A statement or admission made in such proceedings shall not be admissible in evidence against the person making it or his spouse in proceedings for an offence other than perjury.

99 Legal aid

- (1) The Legal Aid Act 1988 is amended as mentioned in subsections (2) to (4).
- (2) In section 15 (availability of, and payment for, representation under provisions relating to civil legal aid), for the words “and (3)” in subsection (1) there shall be substituted “to (3B)”; and the following subsections shall be inserted after subsection (3)—
 - “(3A) Representation under this Part shall not be available—
 - (a) to any local authority; or
 - (b) to any other body which falls within a prescribed description, for the purposes of any proceedings under the Children Act 1989.
 - (3B) Regardless of subsection (2) or (3), representation under this Part must be granted where a child who is brought before a court under section 25 of the 1989 Act (use of accommodation for restricting liberty) is not, but wishes to be, legally represented before the court.”
- (3) In section 19(5) (scope of provisions about criminal legal aid), at the end of the definition of “criminal proceedings” there shall be added “and also includes proceedings under section 15 of the Children and Young Persons Act 1969 (variation and discharge of supervision orders) and section 16(8) of that Act (appeals in such proceedings)”.
- (4) Sections 27, 28 and 30(1) and (2) (provisions about legal aid in care, and other, proceedings in relation to children) shall cease to have effect.
- (5) The Lord Chancellor may by order make such further amendments in the Legal Aid Act 1988 as he considers necessary or expedient in consequence of any provision made by or under this Act.

100 Restrictions on use of wardship jurisdiction

- (1) Section 7 of the Family Law Reform Act 1969 (which gives the High Court power to place a ward of court in the care, or under the supervision, of a local authority) shall cease to have effect.
- (2) No court shall exercise the High Court’s inherent jurisdiction with respect to children—
 - (a) so as to require a child to be placed in the care, or put under the supervision, of a local authority;
 - (b) so as to require a child to be accommodated by or on behalf of a local authority;

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- (c) so as to make a child who is the subject of a care order a ward of court; or
 - (d) for the purpose of conferring on any local authority power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.
- (3) No application for any exercise of the court's inherent jurisdiction with respect to children may be made by a local authority unless the authority have obtained the leave of the court.
- (4) The court may only grant leave if it is satisfied that—
- (a) the result which the authority wish to achieve could not be achieved through the making of any order of a kind to which subsection (5) applies; and
 - (b) there is reasonable cause to believe that if the court's inherent jurisdiction is not exercised with respect to the child he is likely to suffer significant harm.
- (5) This subsection applies to any order—
- (a) made otherwise than in the exercise of the court's inherent jurisdiction; and
 - (b) which the local authority is entitled to apply for (assuming, in the case of any application which may only be made with leave, that leave is granted).

101 Effect of orders as between England and Wales and Northern Ireland, the Channel Islands or the Isle of Man

- (1) The Secretary of State may make regulations providing—
- (a) for prescribed orders which—
 - (i) are made by a court in Northern Ireland; and
 - (ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision of this Act,
 to have effect in prescribed circumstances, for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act;
 - (b) for prescribed orders which—
 - (i) are made by a court in England and Wales; and
 - (ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision in force in Northern Ireland,
 to have effect in prescribed circumstances, for prescribed purposes of the law of Northern Ireland, as if they were orders of a prescribed kind made in Northern Ireland.
- (2) Regulations under subsection (1) may provide for the order concerned to cease to have effect for the purposes of the law of Northern Ireland, or (as the case may be) the law of England and Wales, if prescribed conditions are satisfied.
- (3) The Secretary of State may make regulations providing for prescribed orders which—
- (a) are made by a court in the Isle of Man or in any of the Channel Islands; and
 - (b) appear to the Secretary of State to correspond in their effect to orders which may be made under this Act,
- to have effect in prescribed circumstances for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act.
- (4) Where a child who is in the care of a local authority is lawfully taken to live in Northern Ireland, the Isle of Man or any of the Channel Islands, the care order in question shall

cease to have effect if the conditions prescribed in regulations made by the Secretary of State are satisfied.

- (5) Any regulations made under this section may—
- (a) make such consequential amendments (including repeals) in—
 - (i) section 25 of the Children and Young Persons Act 1969 (transfers between England and Wales and Northern Ireland); or
 - (ii) section 26 (transfers between England and Wales and Channel Islands or Isle of Man) of that Act,as the Secretary of State considers necessary or expedient; and
 - (b) modify any provision of this Act, in its application (by virtue of the regulations) in relation to an order made otherwise than in England and Wales.

Search warrants

102 Power of constable to assist in exercise of certain powers to search for children or inspect premises

- (1) Where, on an application made by any person for a warrant under this section, it appears to the court—
- (a) that a person attempting to exercise powers under any enactment mentioned in subsection (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or
 - (b) that any such person is likely to be so prevented from exercising any such powers,
- it may issue a warrant authorising any constable to assist that person in the exercise of those powers, using reasonable force if necessary.
- (2) Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—
- (a) that person so desires; and
 - (b) the court by whom the warrant is issued does not direct otherwise.
- (3) A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or registered health visitor if he so chooses.
- (4) An application for a warrant under this section shall be made in the manner and form prescribed by rules of court.
- (5) Where—
- (a) an application for a warrant under this section relates to a particular child; and
 - (b) it is reasonably practicable to do so,
- the application and any warrant granted on the application shall name the child; and where it does not name him it shall describe him as clearly as possible.
- (6) The enactments are—
- (a) sections 62, 64, 67, 76, 80, 86 and 87;
 - (b) paragraph 8(1)(b) and (2)(b) of Schedule 3;
 - (c) section 33 of the Adoption Act 1976 (duty of local authority to secure that protected children are visited from time to time).

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General

103 Offences by bodies corporate

- (1) This section applies where any offence under this Act is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

104 Regulations and orders

- (1) Any power of the Lord Chancellor or the Secretary of State under this Act to make an order, regulations, or rules, except an order under section 54(2), 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4), 107 or 108(2), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under section 17(4) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument made under this Act may—
 - (a) make different provision for different cases;
 - (b) provide for exemptions from any of its provisions; and
 - (c) contain such incidental, supplemental and transitional provisions as the person making it considers expedient.

105 Interpretation

- (1) In this Act—
 - “adoption agency” means a body which may be referred to as an adoption agency by virtue of section 1 of the Adoption Act 1976;
 - “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971;
 - “care order” has the meaning given by section 31(11) and also includes any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Act; and any reference to a child who is in the care of an authority is a reference to a child who is in their care by virtue of a care order;
 - “child” means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen;
 - “child assessment order” has the meaning given by section 43(2);
 - “child minder” has the meaning given by section 71;
 - “child of the family”, in relation to the parties to a marriage, means—
 - (a) a child of both of those parties;

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- (b) any other child, not being a child who is placed with those parties as foster parents by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family;
- “children’s home” has the same meaning as in section 63;
- “community home” has the meaning given by section 53;
- “contact order” has the meaning given by section 8(1);
- “day care” has the same meaning as in section 18;
- “disabled”, in relation to a child, has the same meaning as in section 17(11);
- “district health authority” has the same meaning as in the National Health Service Act 1977;
- “domestic premises” has the meaning given by section 71(12);
- “education supervision order” has the meaning given in section 36;
- “emergency protection order” means an order under section 44;
- “family assistance order” has the meaning given in section 16(2);
- “family proceedings” has the meaning given by section 8(3);
- “functions” includes powers and duties;
- “guardian of a child” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 5;
- “harm” has the same meaning as in section 31(9) and the question of whether harm is significant shall be determined in accordance with section 31(10);
- “health authority” means any district health authority and any special health authority established under the National Health Service Act 1977;
- “health service hospital” has the same meaning as in the National Health Service Act 1977;
- “hospital” has the same meaning as in the Mental Health Act 1983, except that it does not include a special hospital within the meaning of that Act;
- “ill-treatment” has the same meaning as in section 31(9);
- “independent school” has the same meaning as in the Education Act 1944;
- “local authority” means, in relation to England and Wales, the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London and, in relation to Scotland, a local authority within the meaning of section 1(2) of the Social Work (Scotland) Act 1968;
- “local authority foster parent” has the same meaning as in section 23(3);
- “local education authority” has the same meaning as in the Education Act 1944;
- “local housing authority” has the same meaning as in the Housing Act 1985;
- “mental nursing home” has the same meaning as in the Registered Homes Act 1984;
- “nursing home” has the same meaning as in the Act of 1984;
- “parental responsibility” has the meaning given in section 3;
- “parental responsibility agreement” has the meaning given in section 4(1);
- “prescribed” means prescribed by regulations made under this Act;
- “privately fostered child” and “to foster a child privately” have the same meaning as in section 66;
- “prohibited steps order” has the meaning given by section 8(1);

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“protected child” has the same meaning as in Part III of the Adoption Act 1976;

“registered children’s home” has the same meaning as in section 63;

“registered pupil” has the same meaning as in the Education Act 1944;

“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) or step-parent;

“residence order” has the meaning given by section 8(1);

“residential care home” has the same meaning as in the Registered Homes Act 1984;

“responsible person”, in relation to a child who is the subject of a supervision order, has the meaning given in paragraph 1 of Schedule 3;

“school” has the same meaning as in the Education Act 1944 or, in relation to Scotland, in the Education (Scotland) Act 1980;

“service”, in relation to any provision made under Part III, includes any facility;

“signed”, in relation to any person, includes the making by that person of his mark;

“special educational needs” has the same meaning as in the Education Act 1981;

“special health authority” has the same meaning as in the National Health Service Act 1977;

“specific issue order” has the meaning given by section 8(1);

“supervision order” has the meaning given by section 31(11);

“supervised child” and “supervisor”, in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

“upbringing”, in relation to any child, includes the care of the child but not his maintenance;

“voluntary home” has the meaning given by section 60;

“voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit.

- (2) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the Family Law Reform Act 1987 (which extends the meaning of such references).
- (3) References in this Act to—
 - (a) a person with whom a child lives, or is to live, as the result of a residence order; or
 - (b) a person in whose favour a residence order is in force,
 shall be construed as references to the person named in the order as the person with whom the child is to live.
- (4) References in this Act to a child who is looked after by a local authority have the same meaning as they have (by virtue of section 22) in Part III.
- (5) References in this Act to accommodation provided by or on behalf of a local authority are references to accommodation so provided in the exercise of functions which stand referred to the social services committee of that or any other local authority under the Local Authority Social Services Act 1970.

- (6) In determining the “ordinary residence” of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—
- (a) which is a school or other institution;
 - (b) in accordance with the requirements of a supervision order under this Act or an order under section 7(7)(b) of the Children and Young Persons Act 1969; or
 - (c) while he is being provided with accommodation by or on behalf of a local authority.
- (7) References in this Act to children who are in need shall be construed in accordance with section 17.
- (8) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service at his proper address.
- (9) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (10) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person—
- (a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;
 - (b) in the case of a partner of a firm, shall be that of the principal office of the firm; and
 - (c) in any other case, shall be the last known address of the person to be served.

106 Financial provisions

- (1) Any—
- (a) grants made by the Secretary of State under this Act; and
 - (b) any other expenses incurred by the Secretary of State under this Act,
- shall be payable out of money provided by Parliament.
- (2) Any sums received by the Secretary of State under section 58, or by way of the repayment of any grant made under section 82(2) or (4) shall be paid into the Consolidated Fund.

107 Application to Channel Islands

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to any of the Channel Islands with such exceptions and modifications as may be specified in the Order.

108 Short title, commencement extent etc

- (1) This Act may be cited as the Children Act 1989.
- (2) Sections 89 and 96(3) to (7), and paragraph 35 of Schedule 12, shall come into force on the passing of this Act and paragraph 36 of Schedule 12 shall come into force at the end of the period of two months beginning with the day on which this Act is passed

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but otherwise this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or the Secretary of State, or by both acting jointly.

- (3) Different dates may be appointed for different provisions of this Act and in relation to different cases.
- (4) The minor amendments set out in Schedule 12 shall have effect.
- (5) The consequential amendments set out in Schedule 13 shall have effect.
- (6) The transitional provisions and savings set out in Schedule 14 shall have effect.
- (7) The repeals set out in Schedule 15 shall have effect.
- (8) An order under subsection (2) may make such transitional provisions or savings as appear to the person making the order to be necessary or expedient in connection with the provisions brought into force by the order, including—
 - (a) provisions adding to or modifying the provisions of Schedule 14, and
 - (b) such adaptations—
 - (i) of the provisions brought into force by the order; and
 - (ii) of any provisions of this Act then in force,
 as appear to him necessary or expedient in consequence of the partial operation of this Act.
- (9) The Lord Chancellor may by order make such amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.
- (10) This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.
- (11) The following provisions of this Act extend to Scotland—
 - section 19;
 - section 25(8);
 - section 50(13);
 - Part X;
 - section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);
 - section 88;
 - section 104 (so far as necessary);
 - section 105 (so far as necessary);
 - subsections (1) to (3), (8) and (9) and this subsection;
 - in Schedule 2, paragraph 24;
 - in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44;
 - in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71;
 - in Schedule 14, paragraphs 1, 33 and 34;
 - in Schedule 15, the entries relating to—
 - (a) the Custody of Children Act 1891;
 - (b) the Nurseries and Child Minders Regulation Act 1948;
 - (c) section 53(3) of the Children and Young Persons Act 1963;
 - (d) section 60 of the Health Services and Public Health Act 1968;

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- (e) the Social Work (Scotland) Act 1968;
- (f) the Adoption (Scotland) Act 1978;
- (g) the Child Care Act 1980;
- (h) the Foster Children (Scotland) Act 1984;
- (i) the Child Abduction and Custody Act 1985; and
- (j) the Family Law Act 1986.

- (12) The following provisions of this Act extend to Northern Ireland—
- section 50;
 - section 101(1)(b), (2) and (5)(a)(i);
 - subsections (1) to (3), (8) and (9) and this subsection;
 - in Schedule 2, paragraph 24;
 - in Schedule 12, paragraphs 7 to 10, 18 and 27;
 - in Schedule 13, paragraphs 21, 22, 46, 47, 57, 62, 63, 68(c) to (e) and 69 to 71;
 - in Schedule 14, paragraphs 18, 28 to 30 and 38(a); and
 - in Schedule 15, the entries relating to the Guardianship of Minors Act 1971, the Children Act 1975, the Child Care Act 1980, and the Family Law Act 1986.