

**Changes to legislation:** Children Act 1989, SCHEDULE 8 is up to date with all changes known to be in force on or before 19 November 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 8

Section 66(5).

#### PRIVATELY FOSTERED CHILDREN

##### *Exemptions*

- 1 A child is not a privately fostered child while he is being looked after by a local authority.

##### **Annotations:**

##### **Commencement Information**

**II** Sch. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 2 (1) A child is not a privately fostered child while he is in the care of any person—
- (a) in premises in which any—
    - (i) parent of his;
    - (ii) person who is not a parent of his but who has parental responsibility for him; or
    - (iii) person who is a relative of his and who has assumed responsibility for his care,is for the time being living;
  - <sup>F1</sup>(b) .....
  - (c) in accommodation provided by or on behalf of any voluntary organisation;
  - (d) in any school in which he is receiving full-time education;
  - (e) in any health service hospital;
  - <sup>F2</sup>(f) in any care home or independent hospital]
  - (g) in any home or institution not specified in this paragraph but provided, equipped and maintained by the Secretary of State.
- (2) Sub-paragraph [<sup>F3</sup>(1)(c)] to (g) does not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the paragraph in question.

##### **Annotations:**

##### **Amendments (Textual)**

**F1** Sch. 8 para. 2(1)(b) repealed (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(27)(a), Sch. 6; S.I. 2001/4150, art. 3(3)(a)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d)(g) (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

**F2** Sch. 8 para. 2(1)(f) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(28); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art.

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3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

- F3** Words in Sch. 8 para. 2(2) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

**Commencement Information**

- I2** Sch. 8 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 3 A child is not a privately fostered child while he is in the care of any person in compliance with—
- [<sup>F4</sup>(a) a youth rehabilitation order made under section 1 of the Criminal Justice and Immigration Act 2008;]
  - [<sup>F5</sup>(b) a compulsory supervision order or interim compulsory supervision order as defined by sections 83 and 86 of the Children’s Hearings (Scotland) Act 2011.]

**Annotations:**

**Amendments (Textual)**

- F4** Sch. 8 para. 3(a) substituted (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, Sch. 4 para. 38** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**
- F5** Sch. 8 para. 3(b) substituted (24.6.2013) by **The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), Sch. 1 para. 2(4)**

**Commencement Information**

- I3** Sch. 8 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 4 A child is not a privately fostered child while he is liable to be detained, or subject to guardianship, under the <sup>M1</sup>Mental Health Act 1983.

**Annotations:**

**Commencement Information**

- I4** Sch. 8 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**Marginal Citations**

- M1** 1983 c. 20.

- 5 A child is not a privately fostered child while [<sup>F6</sup>he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—
- (a) section 2 of the Adoption and Children Act 2002;
  - [<sup>F7</sup>(b) section 119 of the Adoption and Children (Scotland) Act 2007; or]
  - (c) Article 3 of the Adoption (Northern Ireland) Order 1987]
- [<sup>F8</sup>or while he is a child in respect of whom a local authority have functions by virtue of regulations under section 83(6)(b) of the Adoption and Children Act 2002 (which relates to children brought into the United Kingdom for adoption), or corresponding functions by virtue of regulations under section 1 of the Adoption (Intercountry

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Aspects) Act 1999 (regulations to give effect to Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption).]

**Annotations:**

**Amendments (Textual)**

- F6** Sch. 8 para. 5(a)-(c) and preceding words substituted (30.12.2005) for Sch. 8 para. 5(a)(b) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 73 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F7** Sch. 8 para. 5(b) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), Sch. 1 para. 3(3)
- F8** Words in Sch. 8 para. 5 inserted (2.8.2007) by Children and Adoption Act 2006 (c. 20), ss. 14(3), 17; S.I. 2007/2287, art. 2(1)(c)

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

- C1** Sch. 8 para. 5 modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 5, Sch. 4 (with Sch. 1)

**Commencement Information**

- I5** Sch. 8 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

*Power of local authority to impose requirements*

- 6 (1) Where a person is fostering any child privately, or proposes to foster any child privately, the appropriate local authority may impose on him requirements as to—
- the number, age and sex of the children who may be privately fostered by him;
  - the standard of the accommodation and equipment to be provided for them;
  - the arrangements to be made with respect to their health and safety; and
  - particular arrangements which must be made with respect to the provision of care for them,
- and it shall be his duty to comply with any such requirement before the end of such period as the authority may specify unless, in the case of a proposal, the proposal is not carried out.
- (2) A requirement may be limited to a particular child, or class of child.
- (3) A requirement (other than one imposed under sub-paragraph (1)(a)) may be limited by the authority so as to apply only when the number of children fostered by the person exceeds a specified number.
- (4) A requirement shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—
- the reason for imposing the requirement;
  - his right under paragraph 8 to appeal against it; and
  - the time within which he may do so.
- (5) A local authority may at any time vary any requirement, impose any additional requirement or remove any requirement.
- (6) In this Schedule—
- “the appropriate local authority” means—
    - the local authority within whose area the child is being fostered; or

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- (ii) in the case of a proposal to foster a child, the local authority within whose area it is proposed that he will be fostered; and
- (b) “requirement”, in relation to any person, means a requirement imposed on him under this paragraph.

**Annotations:**

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

**C2** Sch. 8 para. 6: power to amend conferred (15.1.2005) by the [Children Act 2004 \(c. 31\)](#), [ss. 45-47](#)

**Commencement Information**

**I6** Sch. 8 para. 6 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828](#), [art. 3\(2\)](#)

*Regulations requiring notification of fostering etc.*

- 7 (1) The Secretary of State may by regulations make provision as to—
- (a) the circumstances in which notification is required to be given in connection with children who are, have been or are proposed to be fostered privately; and
  - (b) the manner and form in which such notification is to be given.
- (2) The regulations may, in particular—
- (a) require any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately to notify the appropriate authority;
  - (b) require any person who is—
    - (i) a parent of a child; or
    - (ii) a person who is not a parent of his but who has parental responsibility for a child, and who knows that it is proposed that the child should be fostered privately, to notify the appropriate authority;
  - (c) require any parent of a privately fostered child, or person who is not a parent of such a child but who has parental responsibility for him, to notify the appropriate authority of any change in his address;
  - (d) require any person who proposes to foster a child privately, to notify the appropriate authority of his proposal;
  - (e) require any person who is fostering a child privately, or proposes to do so, to notify the appropriate authority of—
    - (i) any offence of which he has been convicted;
    - (ii) any disqualification imposed on him under section 68; or
    - (iii) any prohibition imposed on him under section 69;
  - (f) require any person who is fostering a child privately, to notify the appropriate authority of any change in his address;
  - (g) require any person who is fostering a child privately to notify the appropriate authority in writing of any person who begins, or ceases, to be part of his household;
  - (h) require any person who has been fostering a child privately, but has ceased to do so, to notify the appropriate authority (indicating, where the child has died, that that is the reason).

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**Annotations:**

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

**C3** Sch. 8 para. 7: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), ss. 45-47

**Commencement Information**

**I7** Sch. 8 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

[<sup>F9</sup>7A Every local authority must promote public awareness in their area of requirements as to notification for which provision is made under paragraph 7.]

**Annotations:**

**Amendments (Textual)**

**F9** Sch. 8 para. 7A inserted (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), s. 44(7); S.I. 2005/394, art. 2(2)(d); S.I. 2006/885, art. 2(2)(b)

*Appeals*

- 8 (1) A person aggrieved by—
- (a) a requirement imposed under paragraph 6;
  - (b) a refusal of consent under section 68;
  - (c) a prohibition imposed under section 69;
  - (d) a refusal to cancel such a prohibition;
  - (e) a refusal to make an exemption under paragraph 4 of Schedule 7;
  - (f) a condition imposed in such an exemption; or
  - (g) a variation or cancellation of such an exemption,
- may appeal to the court.
- (2) The appeal must be made within fourteen days from the date on which the person appealing is notified of the requirement, refusal, prohibition, condition, variation or cancellation.
- (3) Where the appeal is against—
- (a) a requirement imposed under paragraph 6;
  - (b) a condition of an exemption imposed under paragraph 4 of Schedule 7; or
  - (c) a variation or cancellation of such an exemption,
- the requirement, condition, variation or cancellation shall not have effect while the appeal is pending.
- (4) Where it allows an appeal against a requirement or prohibition, the court may, instead of cancelling the requirement or prohibition—
- (a) vary the requirement, or allow more time for compliance with it; or
  - (b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the local authority had power to impose under paragraph 6 are complied with.
- (5) Any requirement or prohibition specified or substituted by a court under this paragraph shall be deemed for the purposes of Part IX (other than this paragraph)

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to have been imposed by the local authority under paragraph 6 or (as the case may be) section 69.

- (6) Where it allows an appeal against a refusal to make an exemption, a condition imposed in such an exemption or a variation or cancellation of such an exemption, the court may—
- (a) make an exemption;
  - (b) impose a condition; or
  - (c) vary the exemption.
- (7) Any exemption made or varied under sub-paragraph (6), or any condition imposed under that sub-paragraph, shall be deemed for the purposes of Schedule 7 (but not for the purposes of this paragraph) to have been made, varied or imposed under that Schedule.
- (8) Nothing in sub-paragraph (1)(e) to (g) confers any right of appeal on—
- (a) a person who is, or would be if exempted under Schedule 7, a local authority foster parent; or
  - (b) a person who is, or would be if so exempted, a person with whom a child is placed by a voluntary organisation.

**Annotations:**

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

**C4** Sch. 8 para. 8: power to amend conferred (15.1.2005) by the [Children Act 2004 \(c. 31\)](#), **ss. 45-47**

**Commencement Information**

**I8** Sch. 8 para. 8 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828](#), **art. 3(2)**

*Extension of Part IX to certain school children during holidays*

- 9 (1) Where a child under sixteen who is a pupil at a school<sup>F10</sup> . . . lives at the school during school holidays for a period of more than two weeks, Part IX shall apply in relation to the child as if—
- (a) while living at the school, he were a privately fostered child; and
  - (b) paragraphs [F112(1)(c) and (d)] and 6 were omitted.
- [F12But this sub-paragraph does not apply to a school which is F13[a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000].]
- (2) Sub-paragraph (3) applies to any person who proposes to care for and accommodate one or more children at a school in circumstances in which some or all of them will be treated as private foster children by virtue of this paragraph.
- (3) That person shall, not less than two weeks before the first of those children is treated as a private foster child by virtue of this paragraph during the holiday in question, give written notice of his proposal to the local authority within whose area the child is ordinarily resident ("the appropriate authority"), stating the estimated number of the children.
- (4) A local authority may exempt any person from the duty of giving notice under sub-paragraph (3).

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- (5) Any such exemption may be granted for a special period or indefinitely and may be revoked at any time by notice in writing given to the person exempted.
- (6) Where a child who is treated as a private foster child by virtue of this paragraph dies, the person caring for him at the school shall, not later than 48 hours after the death, give written notice of it—
  - (a) to the appropriate local authority; and
  - (b) where reasonably practicable, to each parent of the child and to every person who is not a parent of his but who has parental responsibility for him.
- (7) Where a child who is treated as a foster child by virtue of this paragraph ceases for any other reason to be such a child, the person caring for him at the school shall give written notice of the fact to the appropriate local authority.

#### Annotations:

##### Amendments (Textual)

- F10** Words in Sch. 8 para. 9(1) repealed (1.4.2002) by 2000 c. 14, ss. 110, 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(c)(g)** (with art 3(5)-(10) and transitional provisions in Schs. 1-3)
- F11** Words in Sch. 8 para. 9(1)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F12** Words in Sch. 8 para. 9(1) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)
- F13** Words in Sch. 8 para. 9(1) substituted (1.4.2011 for E., 6.4.2016 for W.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), **Sch. 1 para. 6**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)

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

- C5** Sch. 8 para. 9: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), **ss. 45-47**

##### Commencement Information

- I9** Sch. 8 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### *Prohibition of advertisements relating to fostering*

- 10 No advertisement indicating that a person will undertake, or will arrange for, a child to be privately fostered shall be published, unless it states that person's name and address.

#### Annotations:

##### Commencement Information

- I10** Sch. 10 para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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*Avoidance of insurances on lives of privately fostered children*

- 11 A person who fosters a child privately and for reward shall be deemed for the purposes of the <sup>M2</sup>Life Assurance Act 1774 to have no interest in the life of the child.

**Annotations:**

**Commencement Information**

**I11** Sch. 8 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

**Marginal Citations**

**M2** 1774 c. 48.



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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 23D(3)(4) inserted by 2017 c. 16 s. 3(4)
- s. 23E(1)(aa) inserted by 2017 c. 16 s. 3(6)
- s. 23E(1ZA) inserted by 2017 c. 16 s. 3(7)
- s. 23CZB inserted by 2017 c. 16 s. 3(2)
- s. 23ZZA and cross-heading inserted by 2017 c. 16 s. 4
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)