



Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37

PART V

REMAND HOMES, APPROVED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

Remand Homes

81 Provision of remand homes by local authorities

- (1) It shall be the duty of every local authority to provide for their area remand homes, which may be situate either within or without the area, and for that purpose they may arrange with the occupiers of any premises for the use thereof, or may themselves establish or join with another local authority in establishing such homes.
- (2) The authority or persons responsible for the management of any institution other than a prison may, subject, in the case of an institution supported wholly or partly out of public funds, to the consent of the Government department concerned, arrange with a local authority for the use of the institution, or any part thereof, as a remand home upon such terms as may be agreed.
- (3) A child or young person who may lawfully be remanded in custody to any place situated within the area of a local authority may be so remanded to any remand home, wherever situate, which is provided under this section for that area.
- (4) Nothing in this section shall be construed as requiring a local authority to provide additional remand homes for their area so long as any places of detention provided under the Children Act, 1908, and available for use by the authority as remand homes remain suitable for that purpose and sufficient for the needs of the area.

82 Provisions as to custody of children and young persons in remand homes

- (1) The order or judgment in pursuance of which a child or young person is committed to custody in a remand home shall be delivered with the child or young person to the person in charge of the home and shall be a sufficient authority for his detention in the home in accordance with the tenor thereof.
- (2) A child or young person while so detained and while being conveyed to and from the remand home shall be deemed to be in legal custody.
- (3) The Secretary of State shall cause remand homes to be inspected, and may make rules as to the places to be used as remand homes, and as to their inspection, and as to the classification, treatment, employment and control of children and young persons detained in custody in a remand home, and for the children and young persons while so detained being visited from time to time by persons appointed in accordance with those rules.
- (4) A child or young person who escapes from a remand home may be apprehended without warrant, and brought back thereto, and any person who knowingly assists or induces a child or young person so to escape or knowingly harbours or conceals a child or young person who has so escaped, or prevents him from returning, shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

Approved Schools

83 Approval of schools

- (1) The managers of any school intended for the education and training of persons to be sent there in pursuance of this Act may apply to the Scottish Education Department to approve the school for that purpose, and the Scottish Education Department may, after making such inquiries as they think fit, approve the school for that purpose and issue a certificate of approval to the managers.
- (2) If at any time the Scottish Education Department are dissatisfied with the condition or management of an approved school, or consider its continuance as an approved school unnecessary, they may by notice served on the managers withdraw the certificate of approval of the school as from a date specified in the notice, not being less than six months after the date of the notice, and upon the date so specified (unless the notice is previously withdrawn) the withdrawal of the certificate shall take effect and the school shall cease to be an approved school:

Provided that the Scottish Education Department, instead of withdrawing the certificate of approval, may by a notice served on the managers of the school prohibit the admission of persons to the school for such time as may be specified in the notice, or until the notice is revoked.

- (3) The managers of an approved school may, on giving six months' notice in writing to the Scottish Education Department of their intention so to do, surrender the certificate of approval of the school, and at the expiration of six months from the date of the notice (unless the notice is previously withdrawn), the surrender of the certificate shall take effect, and the school shall cease to be an approved school.
- (4) No person shall in pursuance of this Act be received into the care of the managers of an approved school after the date of the receipt by the managers of the school of a

notice of withdrawal of the certificate of approval of the school or after the date of a notice of intention to surrender the certificate; but the obligations of the managers with respect to persons under their care at the respective dates aforesaid shall continue until the withdrawal or surrender takes effect.

- (5) The Scottish Education Department shall cause any grant of a certificate of approval of an approved school, and any notice of the withdrawal of, or intention to surrender, such a certificate, to be advertised within one month from the date thereof in the Edinburgh Gazette.

84 Provision of approved schools by education authorities

- (1) An education authority may, with the approval of the Scottish Education Department, undertake, or combine with any other education authority in undertaking, or contribute such sums of money upon such conditions as they may think fit towards, the purchase, establishment, building, alteration, enlargement, rebuilding or management of an approved school:

Provided that, before giving their approval, the Scottish Education Department shall satisfy themselves that the proposed expenditure is reasonable and, where it is proposed to purchase, build or establish a new school, that there is a deficiency of approved school accommodation which cannot properly be remedied in any other way.

- (2) In the event of a deficiency of approved school accommodation, it shall be the duty of every education authority concerned to take, either alone or in combination with other education authorities, appropriate steps under this section to remedy the deficiency.

85 Classification, administration and management

- (1) The Scottish Education Department may classify approved schools according to the age of the persons for whom they are intended, the religious persuasion of such persons, the character of the education and training given therein, their geographical position, and otherwise as they think best calculated to secure that a person sent to an approved school is sent to a school appropriate to his case, or as may be necessary for the purposes of this Act.
- (2) The managers of an approved school shall be bound to accept any person who in pursuance of this Act is sent or transferred to their school or otherwise to their care, unless—
- (a) the school is a school for persons of a particular religious persuasion not being that of the person whom it is proposed to send or transfer; or
 - (b) the school is a school provided by an education authority which is not, or by a combination of education authorities no one of which is, liable to make contributions in respect of the person whom it is proposed to send or transfer; or
 - (c) the managers of the school satisfy the Scottish Education Department that there are already as many persons detained in that school, or, as the case may be, otherwise under their care, as is desirable.
- (3) The provisions set out in the Second Schedule to this Act shall have effect in relation to the administration of approved schools and the treatment of persons sent thereto.

86 Escapes from approved schools, and c

- (1) Any person who has been ordered to be sent to an approved school and who—
 - (a) escapes from the school in which he is detained, or from any hospital, home or institution in which he is receiving medical attention; or
 - (b) being absent from his school on temporary leave of absence or on licence, runs away from the person in whose charge he is, or fails to return to the school upon the expiration of his leave, or upon the revocation of his licence; or
 - (c) being absent from his school under supervision, fails to return to the school upon being recalled,

may be apprehended without warrant, and may (any other Act to the contrary notwithstanding) be brought before a court of summary jurisdiction having jurisdiction where he is found, or where his school is situate; and that court may (notwithstanding any limitations contained in this Act upon the period during which he may be detained in an approved school) order him—

 - (i) if he is under the age of sixteen years, to be brought back and to have the period of his detention in the school increased by such period not exceeding six months as the court may direct; or
 - (ii) if he has attained the age of sixteen years, to be brought back and to have the period of his detention so increased, or to be sent to a Borstal institution for two years.
- (2) Where a person is under the last foregoing subsection brought back to his school, the period of his detention shall (notwithstanding any limitations contained in this Act upon the period during which he may be detained in an approved school) be increased, over and above any increase ordered by a court, by a period equal to the period during which he was unlawfully at large.
- (3) The expenses of bringing a person back to a school shall be borne by the managers of the school.
- (4) If any person knowingly—
 - (a) assists or induces a person to commit any such offence as is mentioned in subsection (1) of this section; or
 - (b) harbours or conceals a person who has committed such an offence, or prevents him from returning,

he shall, on summary conviction, be liable to be imprisoned for any term not exceeding two months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.
- (5) If a court of summary jurisdiction is satisfied by information on oath that such an offence as aforesaid has been committed and that there is reasonable ground for believing that some person named in the information could produce the offender, the court may make an order requiring that person to attend at the court on such day as may be specified in the order, and to produce the offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be liable on summary conviction to a fine not exceeding five pounds.

87 Power to send children and young persons from England, Northern Ireland, Isle of Man and Channel Islands to approved schools in Scotland

- (1) Any person detained in a school under the law in force in England or Northern Ireland may, with the consent of the Scottish Education Department, be transferred by order of the competent authority in England or Northern Ireland to an approved school in Scotland designated for the purpose by the Scottish Education Department, and after delivery to the managers of that school may be dealt with and shall be subject to the provisions of this Act as if the order sending him to the school in England or Northern Ireland were an approved school order made upon the same date by a juvenile court.
- (2) The Scottish Education Department may at any time by order direct that a person who under the last foregoing subsection has been transferred to an approved school in Scotland from a school in England or Northern Ireland shall be retransferred to the last-mentioned school, or to such other school as may be specified by the competent authority in England or Northern Ireland, and thereupon the managers of that school shall receive him accordingly.
- (3) If under any law of the Isle of Man or of any of the Channel Islands a court is empowered to order children or young persons under seventeen years of age to be sent to approved schools in Scotland and if by that law provision satisfactory to the Scottish Education Department is made—
 - (a) for the expenses of the conveyance of the children or young persons, and of their reconveyance when discharged, or released on licence;
 - (b) for contributions towards the expenses of the managers of the school; and
 - (c) for the contribution (if any) to be made by the parent or person legally liable to maintain a child or young person so sent, and the mode in which such contribution is to be raised,

a child or young person with respect to whom such an order is made by a court under the said law may be received into such approved school as the Scottish Education Department may direct, and after delivery to the managers of that school may be dealt with, and shall be subject to the provisions of this Act, as if the order sending him to the school were an approved school order made upon the same date by a juvenile court.
- (4) A person so ordered by the competent authority in England or Northern Ireland or by a court in the Isle of Man or the Channel Islands to be transferred or sent to an approved school in Scotland, or so ordered by the Scottish Education Department to be retransferred to a school in England or Northern Ireland, may be conveyed in the custody of any constable or other person acting under a warrant issued by the competent authority in England or Northern Ireland, or by a court in the Isle of Man or the Channel Islands, or by the Scottish Education Department, as the case may be, to the school to which he is ordered to be transferred, sent or retransferred, and he shall during his conveyance to that school be deemed to be in legal custody.
- (5) In this section the expression " competent authority " means, in relation to England, the Secretary of State, and, in relation to Northern Ireland, the Minister of Home Affairs for Northern Ireland, or such authority or person as may be designated by the Parliament of Northern Ireland to exercise the powers conferred by this section on the competent authority in Northern Ireland.

Fit Persons

88 General provisions as to children and young persons committed to the care of fit persons

- (1) The provisions of this section shall apply in relation to orders under this Act committing a child or young person to the care of a fit person, and in this section the expressions " child " and " young person " mean a person with respect to whom such an order is in force, irrespective of whether at the date of the making of the order, or at any subsequent date while the order is in force, he was, or is, a child or young person.
- (2) The Secretary of State may, if he thinks fit, make rules as to the manner in which children and young persons so committed are to be dealt with and as to the duties of the persons to whose care they are committed and may cause any children or young persons committed to the care of an education authority to be visited from time to time.
- (3) An education authority may board out children and young persons committed to their care for such periods and on such terms as to payment and otherwise as they think fit :

Provided that—

- (a) the power of an education authority under this subsection shall be exercised in accordance with any rules made under the last foregoing subsection as to the persons with whom and the conditions under which children and young persons committed to the care of an education authority may be so boarded out;
 - (b) in selecting the person with whom any child or young person is to be boarded out, the education authority shall, if possible, select a person who is of the same religious persuasion as the child or young person, or who gives an undertaking that he will be brought up in accordance with that religious persuasion.
- (4) The Secretary of State may at any time in his discretion discharge a child or young person from the care of the person to whose care he has been committed, and any such discharge may be granted either absolutely or subject to conditions.
 - (5) The Secretary of State in any case where it appears to him to be for the benefit of a child or young person may empower the person to whose care he has been committed to arrange for his emigration, but except with the authority of the Secretary of State no person to whose care a child or young person has been committed shall arrange for his emigration :

Provided that the Secretary of State shall not empower such a person to arrange for the emigration of a child or young person, unless he is satisfied that the child or young person consents and also that his parents have been consulted or that it is not practicable to consult them.

- (6) An order committing a child or young person to the care of a fit person may, on the application of any person, be varied or revoked—
 - (a) if the order was made by a court of summary jurisdiction, by a juvenile court acting for the same place;
 - (b) in any case, by a juvenile court acting for the place within which the child or young person is residing.
- (7) If, on an application made by the parent or guardian or any near relative of a child or young person committed by any such order as aforesaid, any court having power to

vary or revoke the order is satisfied that he is not being brought up in accordance with his religious persuasion, the court shall, unless a satisfactory undertaking is offered by the person to whose care he has been committed, either revoke the order or vary it in such manner as the court thinks best calculated to secure that he is thenceforth brought up in accordance with that persuasion.

- (8) Where the education authority are of opinion that any child or young person who has been committed to their care and who is under seventeen years of age should be sent to an approved school, they may apply to a juvenile court, and that court may, if it thinks that it is desirable in his interests to do so, order him to be sent to such a school.

89 Escapes from care of fit persons

- (1) A child or young person who runs away from a person to whose care he has been committed under this Act may be apprehended without warrant and brought back to that person, if he is willing to receive him, and if he is not willing to receive him, may be brought—

- (a) if the order committing him to the care of that person was made by a court of summary jurisdiction, before a juvenile court acting for the same place as that court; or
- (b) in any other case, before a juvenile court having jurisdiction in the place where he was residing immediately before he ran away,

and that court may make any order with respect to him which the court might have made if he had been brought before it as being a child or young person who, having no parent or guardian, was beyond control.

- (2) A child or young person who runs away from any person with whom he has been boarded out by an education authority under this Act may be apprehended without warrant and brought back to that person, or to such other person as the education authority direct.

- (3) Any person who knowingly—

- (a) assists or induces a child or young person to run away from a person to whose care he has been committed, or with whom he has been boarded out by an education authority, under this Act; or
- (b) harbours or conceals a child or young person who has so run away, or prevents him from returning,

shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

Provisions as to Contributions towards Expenses

90 Contributions to be made by parents, and c. of children and young persons committed to the care of fit persons, or to approved schools

- (1) Where an order has been made by a court committing a child or young person to the care of a fit person, or sending him to an approved school, it shall be the duty of the following persons to make contributions in respect of him, that is to say:—

- (a) his father or stepfather;
- (b) his mother or stepmother; and

- (c) any person who, at the date when any such order as aforesaid is made, is cohabiting with the mother of the child or young person, whether he is his father or not.
- (2) Where the child or young person has been committed to the care of a fit person not being an education authority, contributions under this section shall (except where a direction for payment to an education authority is given under subsection (4) of the next following section) be payable to that person to be applied by him in or towards the maintenance, or otherwise for the benefit, of the child or young person.
- (3) Where the child or young person has been committed to the care of an education authority, or ordered to be sent to an approved school, the contributions shall be payable to the education authority within whose area the person liable to make the contributions is for the time being residing, and shall be paid over by the authority to the Scottish Education Department at such times and in such manner, but subject to such deductions in respect of the services rendered by the authority, as may be prescribed.
- (4) Any sums received by the Scottish Education Department under the last foregoing subsection shall be applied in such manner as the Treasury may direct as appropriations in aid of moneys provided by Parliament for the purposes of this Act.

91 Enforcement of duty of parent, and c. to make contributions

- (1) Where an order has been made by a court committing a child or young person to the care of a fit person or sending him to an approved school, the court which makes it may at the same time, and any court of summary jurisdiction having jurisdiction in the place where the person to be charged is for the time being residing may subsequently at any time, make an order (hereafter in this Act referred to as a " contribution order ") on any person who is under the last foregoing section liable to make contributions in respect of the child or young person, requiring him to contribute such weekly sum as the court having regard to his means thinks fit:

Provided that the total amount to be contributed for any week in respect of any one child or young person under contribution orders shall not (together with any sum payable in respect of that child or young person under a decree for aliment with respect to which an order under the next following section is in force) exceed such sum as may be prescribed, and for this purpose different sums may be prescribed in relation to different circumstances and, in the case of children sent to approved schools, in relation to different schools or classes of school.

- (2) A contribution order may, if the child or young person is committed to the care of a fit person not being an education authority, be made on the application of that person and may, if the child or young person is committed to the care of an education authority, or ordered to be sent to an approved school, be made on the application—
 - (a) in the case of an order applied for at the time when the child or young person is so dealt with, of the education authority to whose care he has been committed, or who are named in the approved school order, as the case may be;
 - (b) in the case of an order applied for subsequently, of the education authority entitled to receive contributions.
- (3) Where a contribution order has been made on any person to whom any pension or income capable of being arrested is payable, the court making the order may at the same time, and any court of summary jurisdiction having jurisdiction in the place

where such person is for the time being resident, may subsequently at any time, after giving the person by whom the pension or income is payable an opportunity of being heard, order that such part as the court may see fit of the pension or income be paid to the person who is for the time being entitled to receive the contributions under the contribution order. Any order made under this subsection shall be an authority to the person by whom the pension or income is payable to make the payment so ordered and the receipt of the person for the time being entitled to receive the contributions shall be a good discharge to the person by whom the pension or income is payable.

- (4) Where a contribution order has been made in respect of a child or young person committed to the care of a fit person, not being an education authority, the court making the contribution order may at the same time, on the application of that person, and any court of summary jurisdiction having jurisdiction in the place where the person liable in payment of the contributions is for the time being resident, may subsequently at any time, on the like application, direct that the contributions shall, in lieu of being payable to the person to whose care the child or young person has been committed, be payable to the education authority within whose area the person liable in payment of the contributions is for the time being resident, and any sums received by that authority in pursuance of such direction shall be paid over to the person to whose care the child or young person has been committed and shall be applied by him in or towards the maintenance, or otherwise for the benefit, of the child or young person.

- (5) A contribution order shall remain in force, in the case of a child or young person committed to the care of a fit person, so long as the order for his committal is in force, and in the case of a child or young person ordered to be sent to an approved school, until he ceases to be under the care of the managers of such a school:

Provided that no contributions shall be payable under a contribution order in respect of any period during which a person ordered to be sent to an approved school is out on licence or under supervision from such a school.

- (6) A contribution order may be revoked or varied by any court of summary jurisdiction having jurisdiction in the place where the person liable is for the time being residing and shall be enforceable in like manner as a decree for aliment.
- (7) A person on whom a contribution order is made shall, if he changes his address, forthwith give notice thereof to the person who was, immediately before the change, entitled to receive the contributions and, if he fails so to do, he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two pounds.

92 Provision as to decrees for aliment

- (1) Where a child or young person who is ordered by a court to be committed to the care of a fit person, or to be sent to an approved school, is illegitimate, and a decree for aliment in respect of him is in force, that court may at the same time, and any court of summary jurisdiction having jurisdiction in the place where the father is for the time being residing may subsequently at any time, order the payments under the decree for aliment to be paid to the person who is from time to time entitled under either of the last two foregoing sections of this Act to receive contributions in respect of the child or young person.

Applications for orders under this subsection may be made by the persons by whom, and in the circumstances in which, applications for contribution orders may be made.

- (2) Where an order made under this section with respect to a decree for aliment is in force—
 - (a) any sums received under the decree for aliment shall be applied in like manner as if they were contributions received under a contribution order;
 - (b) if the father changes his address, he shall forth with give notice thereof to the person who was immediately before the change entitled to receive payments under the order and, if he fails so to do, he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two pounds.
- (3) The making of an order under this section with respect to a decree for aliment shall not, where the father was, at the date of the order committing the child or young person to the care of a fit person or ordering him to be sent to an approved school, cohabiting with the mother of the child or young person, be taken to relieve him from his obligation under the last two foregoing sections to make contributions in respect of the child or young person, except to the extent of any sums actually paid under the decree for aliment to the person entitled to receive contributions.

93 Miscellaneous provisions as to contribution orders

- (1) The Secretary of State, in the case of a child or young person committed to the care of a fit person not being an education authority, and the Scottish Education Department, in the case of a child or young person committed to the care of an education authority or ordered to be sent to an approved school, may in their discretion remit the whole or any part of any payment ordered under either of the last two foregoing sections to be made to a person entitled to receive contributions in respect of such child or young person.
- (2) Where, by virtue of an order made under either of the two last foregoing sections, any sum is payable to an education authority, the education authority in whose area the person liable under the order is for the time being residing shall be entitled to receive and give a discharge for, and, if necessary, enforce payment of, any arrears accrued due under the order, notwithstanding that those arrears may have accrued at a time when he was not resident in that area.
- (3) In any proceedings under either of the two last foregoing sections, a certificate purporting to be signed by the clerk to an education authority for the time being entitled to receive contributions, or by some other officer of the authority duly authorised in that behalf, and stating that any sum due to the authority under an order is overdue and unpaid shall be evidence of the facts stated therein.
- (4) Nothing in this or in the three last foregoing sections shall apply in relation to an approved school order made on the application of a poor law authority in their capacity as such, but the sending of a child or young person to an approved school under such an order shall not affect any right of such authority to recover from any person liable to maintain the child or young person sums expended by the authority in alimenting him and for the purpose of any such right the child or young person shall, while under the care of the managers of an approved school, be deemed to be still in receipt of relief.

94 Contributions by education authorities in respect of persons sent to approved schools

- (1) Subject to the provisions of this section, the education authority named in an approved school order as being the authority within whose area the person to whom the order relates was resident, or within whose area the offence was committed, or the

circumstances arose rendering him liable to be sent to an approved school, shall make in respect of him, throughout the time during which he is under the care of the managers of an approved school, such contributions to the expenses of the managers of his school as may be prescribed and for this purpose different contributions may be prescribed in relation to different circumstances and in relation to different schools or classes of school.

- (2) A court by which an approved school order is made shall cause a copy thereof to be served forthwith on the education authority named in the order, and if that authority desire to contend that the person to whom the order relates was resident in the area of some other education authority or was resident outside Scotland, they may, by notice in writing given at any time within three months after the service upon them of the order, appeal to the sheriff having jurisdiction in the place where the court making the approved school order sat, and if, upon the hearing of the appeal, the sheriff is satisfied that the person to whom the order relates was resident in the area of that other education authority, or was resident outside Scotland, he may by order vary the approved school order by substituting therein the name of that other authority or, as the case may be, a statement that the said person was resident outside Scotland.

Notice of any appeal under this subsection shall be given to the other education authority concerned, if any, and to the sheriff clerk, and the sheriff clerk shall give to the parties to the appeal fourteen days' notice of the date fixed by the court for the hearing thereof.

- (3) An order made under this section shall have effect retrospectively as from the making of the approved school order, and all necessary payments by way of adjustment shall be made accordingly.
- (4) The foregoing provisions of this section shall not apply in relation to an approved school order which—
- (a) is made on the application of a poor law authority in their capacity as such; or
 - (b) is made by reason of the commission of an offence under section twenty-one of this Act (which relates to the punishment of vagrants preventing children from receiving education); or
 - (c) relates to a child or young person stated in the order to have been resident outside Scotland,

but in the first mentioned case the poor law authority on whose application the order is made shall throughout the periods during which the child or young person belongs to either of the following classes of persons, that is to say—

- (i) persons under the care of the managers of an approved school, not being persons out on licence or under supervision;
- (ii) persons out on licence or under supervision from an approved school,

make such contributions in respect of him to the expenses of the managers of his school as the Scottish Education Department may determine to be reasonable, regard being had to the average expenses of the managers (including establishment and administrative expenses) fairly attributable to persons belonging to the class in question.

- (5) In determining for the purposes of this section the place of residence of a child or young person, any period during which he resided in any place as an inmate of a school or other institution, or while boarded out under this Act by an education authority to whose care he has been committed, or in accordance with the conditions of a bond, shall be disregarded.

95 Variation of trusts for maintenance of child or young person

Where a child or young person is by an order of any court made under this Act removed from the care of any person, and that person is entitled under any trust to receive any sum of money in respect of the maintenance of the child or young person, the court may order the whole or any part of the sums so payable under the trust to be paid to any person to whose care the child or young person is committed, to be applied by that person for the benefit of the child or young person in such manner as, having regard to the terms of the trust, the court may direct.