



# Children and Young Persons Act 1963

## 1963 CHAPTER 37

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Research and financial assistance*

#### **45 Research**

- (1) The Secretary of State may conduct or assist other persons in conducting research into any matter connected with his functions or the functions of local authorities under the Children and Young Persons Acts 1933 to 1956, the Children and Young Persons (Scotland) Acts 1937 and 1956, the Children Act 1948, the Children Act 1958 or this Act, or any matter connected with the adoption of children.
- (2) Any local authority may conduct or assist other persons in conducting research into any matter connected with their functions under the enactments mentioned in subsection (1) of this section or their functions connected with the adoption of children.

#### **46 Financial assistance under s. 20 of Children Act 1948**

- (1) In subsection (1) of section 20 of the Children Act 1948 (which authorises a local authority to contribute towards the cost of accommodation and maintenance of certain persons over the age of eighteen who have been in the care of a local authority) after the word " being " there shall be inserted the words " either a person who has attained the age of seventeen but has ceased to be in the care of a local authority, or ".
- (2) In subsection (2) of the said section 20 (which authorises a local authority to make grants towards the education or training of certain persons over the age of eighteen who immediately before they attained that age were in the care of a local authority) for the word " eighteen ", in the first place where it occurs, there shall be substituted the word " seventeen " and for the words " immediately before they attained the age of

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eighteen " there shall be substituted the words " at or after the time when they attained the age of seventeen ".

**47 Power of local authority to guarantee apprenticeship deeds etc. of persons in their care**

While a person is in the care of a local authority under the principal Act, the principal Scottish Act or the Children Act 1948 or by virtue of an order under the Matrimonial Proceedings (Children) Act 1958 or the Matrimonial Proceedings (Magistrates' Courts) Act 1960, the local authority may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship entered into by that person; and where the local authority have undertaken any such obligation under any deed or articles they may at any time (whether or not the person concerned is still in their care) undertake the like obligation under any deed or articles supplemental thereto.

*Children in respect of whom parental rights may be or have been assumed by local authority*

**48 Extension of power of local authority to assume parental rights**

- (1) Where, after a child has been received into the care of a local authority under section 1 of the Children Act 1948, the whereabouts of any parent or guardian of his have remained unknown for not less than twelve months, then, for the purposes of section 2 of that Act (which enables a local authority in certain circumstances to assume parental rights) the parent or guardian shall be deemed to have abandoned the child.
- (2) The power of a local authority under paragraph (b) of section 2(1) of the Children Act 1948 to resolve that all rights and powers of a parent or guardian shall vest in them may be exercised, as well as in the cases mentioned in that paragraph, in any case where it appears to them—
  - (a) that the parent or guardian suffers from a mental disorder (within the meaning of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960) which renders him unfit to have the care of the child; or
  - (b) that the parent or guardian has so persistently failed without reasonable cause to discharge the obligations of a parent or guardian as to be unfit to have the care of the child ;

and the power of the court or sheriff, under subsection (3) of that section, to order that the resolution shall not lapse may also be exercised if the court or sheriff is satisfied that the person who objected to the resolution is unfit to have the care of the child by reason of his persistent failure to discharge the obligations of a parent or guardian.
- (3) In this section "child " has the same meaning as in the Children Act 1948.

**49 Harboursing or concealing child required to return to local authority**

- (1) Where a local authority have, in accordance with section 3(3) of the Children Act 1948, allowed any person to take over the care of a child with respect to whom a resolution under section 2 of that Act is in force and have by notice in writing required that person to return the child at a time specified in the notice (which, if that person has been allowed to take over the care of the child for a fixed period, shall not be earlier than the end of that period) any person who harbours or conceals the child after that time or prevents him from returning as required by the notice shall be liable on

summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months or to both.

- (2) In this section " child " has the same meaning as in the Children Act 1948.

## **50 Extension of power to appoint guardian**

A court may entertain an application under section 4(2A) of the Guardianship of Infants Act 1925 to appoint a guardian of an infant notwithstanding that, by virtue of a resolution under section 2 of the Children Act 1948, a local authority have parental rights with respect to him; but where on such an application the court appoints a guardian the resolution shall cease to have effect.

### *Persons under supervision changing country of residence*

## **51 Supervision of persons moving to Scotland**

- (1) Where a court in England or Wales is satisfied that a child or young person in respect of whom it would otherwise make a supervision order under the principal Act resides or will reside in Scotland, the court shall, instead of making such an order, make an order specifying a court of summary jurisdiction having jurisdiction in the place in Scotland in which the child or young person will reside and placing him for a specified period not exceeding three years under the supervision of such probation officer or other person as may be appointed by that court; and in any area of Scotland to which section 50 of the principal Scottish Act applies the court specified under this subsection shall be the court constituted for that area under the provisions of section 51 of that Act.
- (2) Where a juvenile court in England or Wales is satisfied that a person in respect of whom a supervision order under the principal Act has been made proposes to reside or is residing in Scotland then, instead of amending the order in accordance with Schedule 1 to this Act, the court shall discharge it and make an order under subsection (1) of this section, specifying as the period for which that person will be under supervision the remainder of the period specified in the supervision order.
- (3) The court of summary jurisdiction in Scotland specified in an order under this section shall appoint a probation officer or some other person under whose supervision the child or young person shall be placed; and thereafter the order made under this section shall be treated for the purposes of the principal Scottish Act as a supervision order under that Act.

## **52 Supervision orders by Scottish courts in respect of persons residing in England**

- (1) Where a court in Scotland is satisfied that a child or young person in respect of whom it would otherwise make a supervision order under the principal Scottish Act resides or will reside in England or Wales, the court shall, instead of making such an order, make an order naming the petty sessions area in which the child or young person will reside and placing him for a specified period not exceeding three years under the supervision of a probation officer in England or Wales.
- (2) Where a court in Scotland is satisfied that a person in respect of whom a supervision order under the principal Scottish Act has been made proposes to reside or is residing in England or Wales the court shall discharge that order and make an order under

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subsection (1) of this section, specifying as the period for which that person will be under supervision the remainder of the period specified in the supervision order.

- (3) An order made under the preceding provisions of this section shall be treated for the purposes of the principal Act and this Act as a supervision order under the principal Act.
- (4) In this section " petty sessions area " includes a division of the metropolitan area referred to in Part II of Schedule 2 to this Act.

*Children and young persons escaping to other parts of British Islands*

**53 Arrest in one part of British Islands of children or young persons escaping in other part**

- (1) The power to arrest and bring back any person which is conferred by any of the following provisions relating to persons escaping, taken away or absent after being sent to a remand home, special reception centre or approved school or after being committed to the care of a fit person, that is to say—
  - (a) sections 78(4), 82(1) and 85 of the principal Act; and
  - (b) sections 82(4), 86(1) and 89 of the principal Scottish Act;
 shall be exercisable also—
  - (i) in Northern Ireland, the Channel Islands or the Isle of Man ; and
  - (ii) in relation to persons sent to a remand home or training school or committed to the care of a fit person under the Children and Young Persons Act (Northern Ireland) 1950 or any enactment of the Parliament of Northern Ireland for the time being in force (including persons so committed and boarded out).
- (2) Any person who knowingly harbours or conceals any such person as is mentioned in paragraph (ii) of the preceding subsection or prevents him from returning shall be liable on summary conviction to a fine not exceeding one hundred pounds or imprisonment for a term not exceeding six months or both.
- (3) Every person who is authorised by the managers of a training school within the meaning of the Children and Young Persons Act (Northern Ireland) 1950 to arrest a person under their care and bring him back to his school shall, for the purpose of acting on that authority, have all the powers, protection and privileges—
  - (a) in Great Britain or the Isle of Man, of a constable ;
  - (b) in Jersey, of a member of the police ;
  - (c) in any other part of the Channel Islands, of an officer of police within the meaning of section 43 of the Larceny (Guernsey) Law 1958, or any corresponding law for the time being in force.

*Amendment of Adoption Act 1958*

**54 Extension of scope of Adoption Rules**

- (1) Section 9 of the Adoption Act 1958 (which enables Adoption Rules within the meaning of that Act to be made with respect to matters arising out of Part I thereof) shall have effect as if—

- (a) in subsection (3) thereof the reference to Part I of that Act included references to sections 34 and 35 thereof (under which the right of a parent, adoption society or local authority to remove an infant from the care and possession of a person who has applied for an adoption order cannot be exercised without the leave of the court); and
  - (b) subsection (5) thereof included applications for the leave of the court under the said section 34 or the said section 35 among the applications for the hearing and determination of which otherwise than in open court provision may be made by Adoption Rules.
- (2) In the application of this section to Scotland, the references to section 9 of the Adoption Act 1958 and to subsections (3) and (5) thereof shall be construed as references to section 11 of that Act and subsections (2) and (3) thereof, and references to Adoption Rules shall be construed as references to an act of sederunt made in pursuance of the said subsection (2).

## **55 Emigration with consent of Secretary of State**

Section 52 of the Adoption Act 1958 (which, subject to exceptions, requires the authority of a provisional adoption order for the taking or sending abroad for adoption of infants who are British subjects) shall not apply in the case of any infant emigrating under the authority of the Secretary of State given under section 84(5) of, or paragraph 7 of Schedule 4 to, the principal Act, section 88 (5) of, or paragraph 7 of Schedule 2 to, the principal Scottish Act, or section 17 of the Children Act 1948 (which relate to the emigration of persons who have been committed to the care of a fit person or sent to an approved school or are in the care of a local authority).

### *Miscellaneous*

## **56 Prosecution of offences under Part I or Part II of principal Act**

- (1) Without prejudice to section 98 of the principal Act (which authorises a local education authority to institute proceedings for an offence under Part I or Part II of that Act) any such proceedings may be instituted by the council of a county or county borough, whether or not the council are the local education authority, and may, where the council are the local education authority, be instituted by them otherwise than in that capacity.
- (2) So much of subsection (5) of section 85 of the Local Government Act 1933 and subsection (2) of section 39 of the Children Act 1948 as restricts the matters that may be referred to or dealt with by committees established under those sections respectively shall not apply in relation to any functions exercisable by a council in pursuance of this section.

## **57 Newspaper and broadcast reports of proceedings involving children and young persons**

- (1) In section 39 of the principal Act and in section 46 of the principal Scottish Act (which empower a court to prohibit the publication in newspapers of pictures or matter leading to the identification of children and young persons concerned in certain proceedings) the words " which arise out of any offence against, or any conduct contrary to, decency or morality " shall be omitted and for the word " against " in paragraph (a) there shall be substituted the words " by or against ".

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- (2) Section 49 of the principal Act and section 54 of the principal Scottish Act (which restrict newspaper reports of proceedings in juvenile courts) shall, with the necessary modifications, apply in relation to any proceedings on appeal from a juvenile court (including an appeal by case stated or, in Scotland, stated case) as they apply in relation to proceedings in a juvenile court.
- (3) In the said section 39 the expression " court" shall include any court in Scotland and in the said section 46 that expression shall include any court in England and Wales, and—
  - (a) in the said section 49 references to a juvenile court shall be construed as including references to a juvenile court as defined in section 50(5) of the principal Scottish Act or constituted in accordance with section 51 of that Act; and
  - (b) in the said section 54 references to a juvenile court shall be construed as including references to a juvenile court constituted in accordance with the principal Act.
- (4) The said sections 39 and 49 and the said sections 46 and 54 shall, with the necessary modifications, apply in relation to sound and television broadcasts as they apply in relation to newspapers.

## **58 Power of local authority to visit and assist persons formerly in their care**

Where a person was at or after the time when he attained the age of seventeen in the care of a local authority under the Children Act 1948, the principal Act or the principal Scottish Act, or by virtue of an order under the Matrimonial Proceedings (Children) Act 1958 or the Matrimonial Proceedings (Magistrates' Courts) Act 1960, but has ceased to be in their care, then, while he is under the age of twenty-one, the local authority, if so requested by him, may cause him to be visited, advised and befriended and, in exceptional circumstances, to be given financial assistance.

## **59 Adjustment between local authorities of expenses of maintaining persons in remand homes**

- (1) The Secretary of State may, after consulting such local authorities or associations of local authorities as he thinks fit, by statutory instrument make regulations providing, in such cases as may be prescribed by the regulations, for the recovery, by a local authority providing a remand home from such other local authority as may be so prescribed, of such sum in respect of a person detained in the remand home as may be determined in accordance with a rate prescribed from time to time by order made by the Secretary of State by statutory instrument; and any such order may prescribe different rates for different circumstances.
- (2) No sum shall be recoverable under such regulations in any case where the expenses of maintaining the person detained in the remand home are treated under section 11(3) of this Act as if they were expenses incurred by the authority as managers of an approved school or are recoverable under section 51(3) of the Children Act 1948 (which provides for the recovery of expenses where a child is removed to a place of safety); but where regulations under this section are in force, any expenses incurred by a local authority in maintaining a person in a remand home and recoverable under the said section 51(3) shall for the purposes of that section be taken to be equal to such sum as might, but for this subsection, be recoverable in respect of that person under the regulations.

- (3) Any payment by a local authority which is made or determined in pursuance of this section shall be treated for the purposes of Schedule 1 to the Local Government Act 1958 or, as the case may be, Schedule 1 to the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 as expenses incurred in respect of remand homes (and accordingly as excluded from relevant expenditure for the purposes of general grants).
- (4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *Supplementary provisions*

## **60 Expenses**

There shall be paid out of moneys provided by Parliament any expenses incurred by the Secretary of State under this Act and any increase attributable to this Act in the moneys so payable under any other enactment.

## **61 Effect of Act on general grants in England and Wales**

- (1) Any expenditure incurred by virtue of this Act by the council of a county or county borough shall be relevant expenditure for the purposes of sections 2 and 3 of the Local Government Act 1958 (which relate to general grants) whether or not it is expenditure specified in Part I of Schedule 1 to that Act, unless it is expenditure excluded by any provision of Part II of that Schedule.
- (2) The Minister of Housing and Local Government shall have power, by an order made in the like manner and subject to the like provisions as a general grant order, to vary the provisions of any general grant order made before the commencement of this Act for a grant period ending after the commencement of this Act.
- (3) Any order made by virtue of this section may be made for all or any of the years comprised in the said grant period, as may be specified in the order, and in respect of the year or years so specified shall—
  - (a) increase the annual aggregate amount of the general grants, and
  - (b) vary any other matter prescribed by the said general grant order,to such extent and in such manner as may appear to the Minister of Housing and Local Government to be appropriate having regard to any additional expenditure incurred or likely to be incurred by councils of counties or county boroughs in consequence of the passing of this Act.
- (4) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by section 2(4) of the Local Government Act 1958 (which confers power to vary general grant orders in consequence of unforeseen increases in the level of prices, costs or remuneration).
- (5) In this section the expressions " general grant order " and " grant period " have the meanings respectively assigned to them by subsection (6) and subsection (7) of section 1 of the Local Government Act 1958.

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## **62 Effect of Act on general grants in Scotland**

- (1) Any expenditure incurred by virtue of this Act by: the council of a county or of a large burgh shall be relevant' expenditure for the purposes of sections 2 and 3 of the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 (which relate to general grants) whether or not it is expenditure specified in Schedule 1 to that Act.
- (2) The Secretary of State shall have power, by an order made in the like manner and subject to the like provisions as a general grant order, to vary the provisions of any general grant order made before the commencement of this Act for a grant period ending after the commencement of this Act.
- (3) Any order made by virtue of this section may be made for all or any of the years comprised in the said grant period, as may be specified in the order, and in respect of the year or years so specified shall increase the annual aggregate amount of the general grants to such extent as may appear to the Secretary of State to be appropriate having regard to any additional expenditure incurred or likely to be incurred by councils of counties or of large burghs in consequence of the passing of this Act.
- (4) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by section 2(2) of the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 (which confers power to vary general grant orders in consequence of unforeseen increases in the level of prices, costs or remuneration).
- (5) In this section the expressions " general grant order " and " grant period" have the meanings respectively assigned to them by subsection (5) and subsection (6) of section 1 of the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958.
- (6) This section extends to Scotland only.

## **63 Interpretation**

- (1) In this Act " the principal Act " means the Children and Young Persons Act 1933 and " the principal Scottish Act" means the Children and Young Persons (Scotland) Act 1937.
- (2) References in this Act to any enactment are references thereto as amended and include references thereto as applied, by any other enactment including, except where the context otherwise requires, any enactment contained in this Act.

## **64 Amendments, transitional provisions, and repeals**

- (1) The enactments mentioned in Schedule 3 to this Act shall have effect subject to the amendments specified therein.
- (2) This Act shall have effect subject to the transitional provisions contained in Schedule 4 to this Act.
- (3) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.



## **65 Citation, construction, commencement and extent**

- (1) This Act may be cited as the Children and Young Persons Act 1963.
- (2) This Act and the Children and Young Persons Acts 1933 to 1956 may be cited as the Children and Young Persons Acts 1933 to 1963, and this Act and the Children and Young Persons (Scotland) Acts 1937 and 1956 may be cited as the Children and Young Persons (Scotland) Acts 1937 to 1963.
- (3) This Act, except in so far as it amends any Act not construed as one with the principal Act or the principal Scottish Act, shall be construed, in its application to England and Wales, as one with the principal Act and, in its application to Scotland, as one with the principal Scottish Act.
- (4) The following provisions of this Act do not extend to Scotland, that is to say, Part I except sections 1, 10 and 32, sections 56 and 61, and Schedules 1 and 2 and Schedule 4 except paragraph 3.
- (5) Subsections (1) and (2) of section 10 and sections 42 and 53(1) of this Act, paragraphs 7, 8, 27, 34 and 50 of Schedule 3, and so much of Schedule 5 as relates to section 25 and section 26 of the principal Act, extend to Northern Ireland.
- (6) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different purposes; and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the time at which that provision comes into operation.