



Children and Young Persons Act 1969

1969 CHAPTER 54

PART II

ACCOMMODATION ETC. FOR CHILDREN IN CARE, AND FOSTER CHILDREN

Foster children

51 Modification of general duty of local authorities with respect to foster children

For section 1 of the Children Act 1958 (which imposes a duty on every local authority to secure that foster children are visited by officers of the authority) there shall be substituted the following section:—

“1 Duty of local authorities to ensure well-being of foster children.

It shall be the duty of every local authority to satisfy themselves as to the well-being of children within their area who are foster children within the meaning of this Part of this Act and, for that purpose, to secure that, so far as appears to the authority to be appropriate, the children are visited from time to time by officers of the authority and that such advice is given as to the care and maintenance of the children as appears to be needed.”

52 Amendments of definitions of " foster child " and " protected child "

- (1) In subsection (1) of section 2 of the Children Act 1958 (which, subject to the following provisions of that section, defines a foster child for the purposes of Part I of that Act as a child below the upper limit of the compulsory school age whose care and maintenance are undertaken for reward for a period exceeding one month by a person who is not a relative or guardian of his) the words from " for reward " to " one month " shall be omitted.
- (2) At the end of paragraph (c) of subsection (3) of the said section 2 (which provides that a child is not a foster child while he is in the care of any person in a school) there shall be added the words " in which he is receiving full time education ".

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- (3) After subsection (3) of the said section 2 there shall be inserted the following subsection:—

“(3A) A child is not a foster child within the meaning of this Part of this Act at any time while his care and maintenance are undertaken by a person, other than a relative or guardian of his, if at that time—

- (a) that person does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than six days ; or
- (b) that person is not a regular foster parent and does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than twenty-seven days;

and for the purposes of this subsection a person is a regular foster parent if, during the period of twelve months immediately preceding the date on which he begins to undertake the care and maintenance of the child in question, he had, otherwise than as a relative or guardian, the care and maintenance of one or more children either for a period of, or periods amounting in the aggregate to, not less than three months or for at least three continuous periods each of which was of more than six days.”

- (4) Section 37 of the Adoption Act 1958 (which defines " protected child " for the purposes of Part IV of that Act) shall have effect subject to the following modifications:—

- (a) in paragraph (a) of subsection (1) (which refers to arrangements for placing a child in the care of a person who is not a parent, guardian or relative of his) after the words " relative of his " there shall be inserted the words " but who proposes to adopt him ";
- (b) in subsection (1) (which among other matters excludes a foster child from the definition of " a protected child ") the words " but is not a foster child within the meaning of Part I of the Children Act 1958 " shall be omitted; and
- (c) in subsection (2) (which excludes certain children from the definition of protected child, including children only temporarily in the care and possession of a person under such arrangements as are referred to in subsection (1)(a) of that section) the words from " by reason " to " that subsection, nor " shall be omitted.

- (5) In consequence of the modifications of the definition of "protected child" specified in subsection (4) of this section, after subsection (4) of section 2 of the Children Act 1958 there shall be inserted the following subsection:—

“(4A) A child is not a foster child for the purposes of this Part of this Act while he is placed in the care and possession of a person who proposes to adopt him under arrangements made by such a local authority or registered adoption society as is referred to in Part II of the Adoption Act 1958 or while he is a protected child within the meaning of Part IV of that Act.”

53 Modification of duty of persons maintaining foster children to notify local authority

- (1) Section 3 of the Children Act 1958 (which requires any person maintaining foster children to notify the local authority on each occasion on which he receives a foster child) shall have effect subject to the following provisions of this section.
- (2) In subsection (1) of the section (which requires at least two weeks advance notice of, or, in an emergency, notice within one week after, the reception of a foster child) at

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the beginning there shall be inserted the words " Subject to the following provisions of this section ", after the words " two weeks" there shall be inserted the words " and not more than four weeks " and for the words "one week" there shall be substituted the words " forty-eight hours " .

- (3) In subsection (2) of the section (which relates to the content of the notice) after the word " specify " there shall be inserted the words " the date on which it is intended that the child should be received or, as the case may be, on which the child was in fact received or became a foster child and " .
- (4) After subsection (2) of the section there shall be inserted the following subsection :—
- “(2A) A person shall not be required to give notice under subsection (1) of this section in relation to a child if—
- (a) he has on a previous occasion given notice under that subsection in respect of that or any other child, specifying the premises at which he proposes to keep the child in question ; and
 - (b) he has not, at any time since that notice was given, ceased to maintain at least one foster child at those premises and been required by virtue of the following provisions of this section to give notice under subsection (5A) of this section in respect of those premises.”
- (5) In subsection (3) of the section (which relates to notification of changes of address of foster parents and requires similar periods of notice as under subsection (1))—
- (a) for the words " a foster child" there shall be substituted the words " one or more foster children ";
 - (b) for the words " the child is kept" there shall be substituted the words " the child is, or the children are, kept ";
 - (c) after the words " two weeks " there shall be inserted the words " and not more than four weeks " ; and
 - (d) for the words " one week " there shall be substituted the words " forty-eight hours " .
- (6) So much of subsection (4) of the section as requires notification that a foster child has been removed or has removed himself from the care of the person maintaining him shall cease to have effect and, accordingly, in that subsection for the words " that person " there shall be substituted the words " the person who was maintaining him " and in subsection (5) of the section (which dispenses with the need for such a notice where a child ceases to be a foster child on his removal from a foster parent but empowers the local authority concerned to require certain particulars in such a case)—
- (a) for the words " ceases to be a foster child on his removal" there shall be substituted the words " is removed or removes himself ";
 - (b) the words " need not give notice under subsection (4) of this section but " shall be omitted ; and
 - (c) for the words from " the same " onwards there shall be substituted the words " the name and address, if known, of the person (if any) into whose care the child has been removed " .
- (7) After subsection (5) of the section there shall be inserted the following subsections:—
- “(5A) Subject to the provisions of the following subsection, where a person who has been maintaining one or more foster children at any premises ceases to maintain foster children at those premises and the circumstances are such that no notice is required to be given under subsection (3) or subsection (4) of this

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section, that person shall, within forty-eight hours after he ceases to maintain any foster child at those premises, give notice in writing thereof to the local authority.

(5B) A person need not give the notice required by the preceding subsection in consequence of his ceasing to maintain foster children at any premises if, at the time he so ceases, he intends within twenty-seven days again to maintain any of them as a foster child at those premises; but if he subsequently abandons that intention or the said period expires without his having given effect to it he shall give the said notice within forty-eight hours of that event.”

54 Inspection of premises in which foster children are kept

(1) In section 4(1) of the Children Act 1958 (which empowers an officer of a local authority to inspect premises in the local authority's area in which foster children are being kept) after the word " in " in the second place where it occurs there shall be inserted the words " the whole or any part of ".

(2) After the said section 4(1) there shall be inserted the following subsection:—

“(1A) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that there is reasonable cause to believe that a foster child is being kept in any premises, or in any part thereof, and
- (b) that admission to those premises or that part thereof has been refused to a duly authorised officer of the local authority or that such a refusal is apprehended or that the occupier is temporarily absent,

the justice may by warrant under his hand authorise an officer of the local authority to enter the premises, if need be by force, at any reasonable time within forty-eight hours of the issue of the warrant, for the purpose of inspecting the premises.”

(3) At the end of paragraph (b) of section 14(1) of the Children Act 1958 (which makes it an offence under that section to refuse to allow an inspection of any premises under section 4(1) of that Act) there shall be added the words " or wilfully obstructs a person entitled to enter any premises by virtue of a warrant under subsection (1A) of that section ".

55 Imposition of requirements and prohibitions relating to the keeping of foster children

(1) In section 4(2) of the Children Act 1958 (which empowers a local authority to impose certain requirements on a person who keeps or proposes to keep foster children in premises used wholly or mainly for that purpose) for the word " mainly " there shall be substituted the word " partly ".

(2) After paragraph (f) of the said section 4(2) there shall be inserted the following paragraphs:—

- “(g) the fire precautions to be taken in the premises;
- (h) the giving of particulars of any foster child received in the premises and of any change in the number or identity of the foster children kept therein.”

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- (3) In the words following the several paragraphs of the said section 4(2), after the word "but" there shall be inserted the words " any such requirement may be limited to a particular class of foster children kept in the premises and " and for the words " (b) to (f) " there shall be substituted the words " (b) to (h) ".
- (4) For subsection (3) of section 4 of the Children Act 1958 (which empowers a local authority to prohibit a person from keeping a particular foster child or any foster children at particular premises) there shall be substituted the following subsections:—
- “(3) Where a person proposes to keep a foster child in any premises and the local authority are of the opinion that—
- (a) the premises are not suitable premises in which to keep foster children ; or
 - (b) that person is not a suitable person to have the care and maintenance of foster children ; or
 - (c) it would be detrimental to that child to be kept by that person in those premises;
- the local authority may impose a prohibition on that person under subsection (3A) of this section.
- (3A) A prohibition imposed on any person under this subsection may—
- (a) prohibit him from keeping any foster child in premises specified in the prohibition ; or
 - (b) prohibit him from keeping any foster child in any premises in the area of the local authority ; or
 - (c) prohibit him from keeping a particular child specified in the prohibition in premises so specified.
- (3B) Where a local authority have imposed a prohibition on any person under subsection (3A) of this section, the local authority may, if they think fit, cancel the prohibition, either of their own motion or on an application made by that person on the ground of a change in the circumstances in which a foster child would be kept by him.”
- (5) In section 5(1) of the Children Act 1958 (which confers a right of appeal to a juvenile court within fourteen days of the imposition of a requirement or prohibition under section 4 of that Act) after the word " prohibition ", in the second place where it occurs, there shall be inserted the words " or, in the case of a prohibition imposed under subsection (3A) of that section, within fourteen days from the refusal by the local authority to accede to an application by him for the cancellation of the prohibition ".

56 Extension of disqualification for keeping foster children

- (1) In section 6 of the Children Act 1958 (which provides that a person shall not, without the consent of the local authority, maintain a foster child if one or more of a variety of orders has been made against him) there shall be made the following amendments, that is to say—
- (a) in paragraph (b), after the word " 1933 ", there shall be inserted the words " the Children and Young Persons Act 1969 " and for the words from " in respect of " to " of which the " there shall be substituted the words " and by virtue of the order or requirement a ";

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- (b) at the end of paragraph (c) there shall be inserted the words " or has been placed on probation or discharged absolutely or conditionally for any such offence ";
- (c) in paragraph (e), after the word " subsection " there shall be inserted the words " (3) or " and for the words from " refusing " onwards there shall be substituted the words " refusing, or an order under section five of that Act cancelling, the registration of any premises occupied by him or his registration " ; and
- (d) after paragraph (e) there shall be inserted the following paragraph:—
 - “(f) an order has been made under section 43 of the Adoption Act 1958 for the removal of a protected child who was being kept or was about to be received by him.”

(2) At the end of the said section 6 there shall be added the following subsection: —

“(2) Where this section applies to any person, otherwise than by virtue of this subsection, it shall apply also to any other person who lives in the same premises as he does or who lives in premises at which he is employed ;”
 and accordingly the said section 6 as amended by the preceding subsection shall be subsection (1) of that section.

57 Modifications of provisions as to offences

(1) After subsection (1) of section 14 of the Children Act 1958 (which, among other matters, makes it an offence to maintain a foster child in contravention of section 6 of that Act) there shall be inserted the following subsection:—

“(1A) Where section 6 of this Act applies to any person by virtue only of subsection (2) of that section, he shall not be guilty of an offence under paragraph (d) of subsection (1) of this section if he proves that he did not know, and had no reasonable ground for believing, that a person living or employed in the premises in which he lives was a person to whom that section applies.”

(2) After subsection (2) of the said section 14 (which provides that offences under that section are punishable summarily) there shall be added the following subsection :—

“(2A) If any person who is required, under any provision of this Part of this Act, to give a notice fails to give the notice within the time specified in that provision, then, notwithstanding anything in section 104 of the Magistrates' Courts Act 1952 (time limit for proceedings) proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the local authority.”