

SCHEDULES

SCHEDULE 4

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

GENERAL

- 1 For the purposes of subsection (4) of section 1 and subsection (7) of section 7 of this Act, any order under the Act of 1933 committing a child or young person to the care of a fit person other than a local authority, any supervision order under that Act and any order to enter into recognisances in pursuance of section 62(1)(c) of that Act shall be deemed to be such an earlier order as is mentioned in those subsections.
- 2 (1) Nothing in section 4 of this Act affects any proceedings against a person for an offence with which by virtue of that section he has ceased to be chargeable since the proceedings were begun ; but where a person is found guilty of an offence and by reason of that section could not have been charged with it on the date of finding, then, subject to sections 1(5) and 2(13) of this Act, the court may make an order under section 1 of this Act in respect of the offender or an order discharging him absolutely but shall not have power to make any other order in consequence of the finding.
(2) Nothing in section 4 of this Act shall be construed as preventing any act or omission which occurred outside the United Kingdom from being a civil offence for the purposes of the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957, or from being dealt with under any of those Acts.
- 3 Nothing in section 5 of this Act affects any information laid in respect of a person before the date on which apart from this paragraph the information would have been required by virtue of that section to contain a statement of his age.
- 4 Where a person is committed for trial by a jury before subsection (1) of section 6 of this Act comes into force, or claims to be tried by a jury before subsection (2) of that section comes into force, proceedings in respect of the offence in question shall not be affected by the coming into force of that subsection.
- 5 (1) The coming into force of section 7(1) or of an order under section 34(1)(d) of this Act shall not affect any sentence of borstal training passed before the date when the said section 7(1) or the order came into force or any committal for sentence before that date under section 28(1) of the Magistrates' Courts Act 1952 ; but a sentence of borstal training shall not be passed on any person (including a person to whom such a committal relates) if on the date of the relevant conviction he had not attained the minimum age which is for the time being specified in section 20(1) of the Criminal Justice Act 1948.
(2) Nothing in section 7(2) of this Act affects a probation order made before the coming into force of the said section 7(2).

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6 No order shall be made under section 19(1) of the Criminal Justice Act 1948, at any time after the coming into force of this paragraph and before the coming into force of paragraph 23 of Schedule 5 to this Act, in respect of a person under the age of seventeen in consequence of a default within the meaning of the Criminal Justice Act 1961.

7 (1) Every approved school order in force on the specified day shall cease to have effect at the end of that day ; and after that day—

- (a) no person shall be detained by virtue of section 73 or section 82 of the Act of 1933 or an order under paragraph 2 of Schedule 2 to the said Act of 1961 or be subject to supervision in pursuance of that Schedule ; and
- (b) no person who has attained the age of nineteen shall be detained by virtue of a warrant under section 15 of the said Act of 1961.

(2) A person who has not attained the age of nineteen on the specified day and who, but for sub-paragraph (1) of this paragraph, would after that day have been the subject of an approved school order or liable to be detained or subject to supervision as mentioned in that sub-paragraph shall be deemed from the end of that day—

- (a) to be the subject of a care order made by the court which made the approved school order in question on the same day as that order and committing him to the care of the local authority named in the approved school order in pursuance of section 70(2) of the Act of 1933 or, if no authority is so named, of a local authority nominated in relation to him by the Secretary of State; and
- (b) in the case where he would have been subject to supervision as aforesaid, to have been allowed by the said local authority to be under the charge and control of the person last nominated in relation to him in pursuance of paragraph 1(1) of Schedule 2 to the said Act of 1961 ;

but nothing in this paragraph shall be construed as affecting the validity of a warrant under the said section 15 in relation to a person who has not attained the age of nineteen.

In relation to a person in respect of whom two or more approved school orders would have been in force after the specified day but for sub-paragraph (1) of this paragraph, references to such an order in paragraph (a) of this sub-paragraph are to the later or latest of the orders.

(3) The Secretary of State may from time to time nominate another local authority in the place of a local authority nominated by him in pursuance of the preceding sub-paragraph or this sub-paragraph.

(4) A person who is the subject of a care order by virtue of sub-paragraph (2) of this paragraph and who was unlawfully absent on the specified day from an approved school in which he was then required to be shall, until the local authority to whose care he is committed by the order direct otherwise, be deemed for the purposes of section 32 of this Act to be duly required by the authority to live after that day in the premises which on that day constituted the school.

(5) A person who on the specified day is the subject of an approved school order or subject to supervision in pursuance of the said Schedule 2 or eligible for assistance under paragraph 7 of that Schedule and is not the subject of a care order from the end of that day by virtue of sub-paragraph (2) of this paragraph shall be deemed for the purposes of section 20 of the Children Act 1948 and section 58 of the Act of 1963 (which authorise local authorities to provide assistance for persons formerly in care)

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to have been in the care of a local authority under the Children Act 1948 on that day, notwithstanding that he may then have attained the age of eighteen ; and in relation to such a person the reference in the said section 58 to the local authority shall be construed as a reference to any local authority.

- (6) If an order under section 88 of the Act of 1933 is in force at the end of the specified day in respect of payments under an affiliation order made for the maintenance of a person who is deemed by virtue of this paragraph to be subject to a care order after that day, the order under that section shall after that day be deemed to have been made, by virtue of the care order, under that section as modified by this Act.
- (7) A direction restricting discharge which was given under section 74 of the Mental Health Act 1959 in respect of a person detained by virtue of an approved school order and which is in force at the end of the specified day shall cease to have effect at the end of that day.
- (8) References to an approved school order in this paragraph, except in sub-paragraph (2) (a), include references to an order of the competent authority under subsection (1) of section 83 of the Act of 1933 and such an order as is mentioned in subsection (3) of that section ; and in relation to those orders this paragraph shall have effect as if for sub-paragraph (2)(a) there were substituted the following—
- “(a) to be the subject of a care order made by a court in England on the date when the order for his detention in a school was made under the relevant law mentioned in section 83 of the Act of 1933 and committing him to the care of a local authority nominated in relation to him by the Secretary of State ; and ” (9) In this paragraph "the specified day" means the day specified for the purposes of section 7(5) of this Act.”
- 8 (1) An order under the Act of 1933 committing a child or young person to the care of a local authority as a fit person and in force on the date when section 7(6) of this Act comes into force shall be deemed on and after that date to be a care order committing him to the care of that authority.
- (2) Sub-paragraph (6) of the preceding paragraph shall have effect for the purposes of this paragraph as if for references to that paragraph and the specified day there were substituted respectively references to this paragraph and the day preceding the date mentioned in the preceding sub-paragraph.
- 9 Except as provided by paragraph 1 of this Schedule and this paragraph, nothing in this Act affects—
- (a) an order under the Act of 1933 committing a child or young person to the care of a fit person other than a local authority and in force on the date when section 7(6) of this Act comes into force ; or
- (b) the operation of any enactment in relation to such an order ;
- but where an application for the variation or revocation of the order is considered on or after that date by a juvenile court in pursuance of section 84(6) of the Act of 1933, the court shall have power (to the exclusion of its powers under the said section 84(6)) to refuse the application or to revoke the order and, where it revokes the order, to make a care order in respect of the child or young person in question.
- 10 Without prejudice to the preceding paragraph, a person who is subject to such an order as is mentioned in sub-paragraph (a) of that paragraph is not a foster-child within the meaning of Part I of the Children Act 1958.

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- 11 Notwithstanding anything in section 20(3) or 21(1) of this Act, an order which is a care order by virtue of paragraph 8 of this Schedule and a care order made by virtue of paragraph 9 of this Schedule shall, unless previously revoked, cease to have effect when the child or young person in question attains the age of eighteen.
- 12 (1) Where a supervision order under the Children and Young Persons Acts 1933 to 1963 is in force on the date when this paragraph comes into force or where an order under section 52 of the Act of 1963 (whether made before, on or after that date) falls to be treated by virtue of subsection (3) of that section as a supervision order under the Act of 1933, the order and, in relation to the order, any enactment amended or repealed by this Act shall, subject to the following provisions of this paragraph, have effect as if this Act had not been passed; and the order may be altered or revoked accordingly.
- (2) A juvenile court before which the person to whom such a supervision order relates is brought after the date aforesaid in pursuance of subsection (1) of section 66 of the Act of 1933 shall not have power to make such an order as is mentioned in that subsection in respect of him but shall instead have power to revoke the supervision order and make a care order in respect of him on being satisfied that he is unlikely to receive the care or control he needs unless the court makes a care order; and section 6(1) of the Act of 1963 shall not apply in a case where the court exercises its power under this sub-paragraph.
- (3) Where such a supervision order contains a provision requiring residence in an institution which has become a community home, the provision shall be construed as requiring residence in the home ; and in such a case any reference to an institution of the kind in question in rules under the Criminal Justice Act 1948 providing for the making of payments to the body or person by whom the institution is managed shall be construed as a reference to the home.
- (4) References to a supervision order in sub-paragraphs (2) and (3) of this paragraph include references to an order under the said section 52.
- 13 (1) During the period beginning with the coming into force of section 35 of this Act and ending with the coming into operation of a regional plan for a particular planning area—
- (a) sections 15 and 16 of the Children Act 1948 shall continue to apply in relation to each of the relevant authorities ; and
- (b) each of the relevant authorities may continue to exercise the power conferred by subsection (2) of section 19 of that Act, as it had effect immediately before the passing of this Act, to accommodate persons in hostels provided under that section ; and
- (c) section 77(1) of the Act of 1933 shall continue to apply in relation to each of the relevant authorities as if for the words " the duty of " there were substituted the words " lawful for ".
- (2) Where different parts of the area of a local authority are comprised in different planning areas then, in relation to that local authority, the period specified in sub-paragraph (1) of this paragraph shall not expire until a regional plan has come into operation for each of if those planning areas.
- (3) If on the submission of a regional plan for a planning area to the Secretary of State part only of the plan is approved by him, any reference in the preceding provisions of this paragraph to the coming into operation of a regional plan for that area shall be construed as a reference to the coming into operation of a further regional plan containing all necessary supplementary proposals for that area.

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- 14 If immediately before the coming into force of section 49 of this Act any person has, under section 3(3) of the Children Act 1948, the care and control of a child (within the meaning of that Act) with respect to whom a resolution under section 2 of that Act is in force, then after the coming into force of that section the child shall again be in the care of the local authority by whom the resolution was passed but shall be deemed to have been allowed by that authority, under section 13(2) of that Act (as substituted by the said section 49), to be under the charge and control of that person, on the same terms as were applicable under the said section 3(3).
- 15 It shall be lawful for a person detained in any place in pursuance of section 27 of the Criminal Justice Act 1948 at the time when paragraph 24 of Schedule 5 to this Act comes into force to be detained there thereafter, until he is next delivered thence in due course of law, as if that paragraph had not come into force.
- 16 Nothing in paragraph 29 of Schedule 5 to this Act affects the operation of section 2(4) of the Children Act 1958 in relation to a supervision order made under the Children and Young Persons (Scotland) Act 1937.
- 17 Nothing in Schedule 6 to this Act affects the operation of section 15(3) of the Adoption Act 1958 in relation to a fit person order made under the Children and Young Persons (Scotland) Act 1937.
- 18 Nothing in any provision of Schedule 6 to this Act affects any order which, immediately before the coming into force of that provision, is in force by virtue of any enactment repealed by that provision.