

Status: Point in time view as at 01/02/1991.

Changes to legislation: Criminal Justice Act 1982, Cross Heading: Care orders and children in care is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Criminal Justice Act 1982

1982 CHAPTER 48

PART I

TREATMENT OF YOUNG OFFENDERS

Care orders and children in care

[^{F1}23 **Criteria for making care orders.**

In section 7 of the ^{M1}Children and Young Persons Act 1969—

- (a) in subsection (7) (under which a court has power to make a care order where a child is found guilty of homicide or a young person is found guilty of any imprisonable offence) after the word “Subject” there shall be inserted the words “to subsection (7A) of this section and”; and
- (b) the following subsection shall be inserted after that subsection—

“(7A) A court shall not make a care order under subsection (7) of this section in respect of a child or young person unless it is of opinion—

- (a) that a care order is appropriate because of the seriousness of the offence; and
- (b) that the child or young person is in need of care or control which he is unlikely to receive unless the court makes a care order.”.]

Textual Amendments

F1 Ss. 22–25, 27 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(7), **Sch. 15**

Marginal Citations

M1 1969 c. 54.

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[^{F2}24 Restriction on making care orders in respect of persons not legally represented.

The following section shall be inserted after section 7 of the ^{M2}Children and Young Persons Act 1969—

“ Legal representation.

- (1) A court shall not make a care order under section 7(7) of this Act in respect of a child or young person who is not legally represented in that court unless either—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear that his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (2) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before a care order is made, and in this section “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to the making of the care order; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.”.]

Textual Amendments

F2 Ss. 22–25, 27 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(7), **Sch. 15**

Marginal Citations

M2 1969 c. 54.

[^{F3}25 Restriction of liberty of children in care.

(1) The following section shall be inserted after section 21 of the ^{M3}Child Care Act 1980—

“ Use of accommodation for restricting liberty.

- (1) Subject to regulations under subsection (2)(a) below, a child in the care of a local authority may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty unless it appears—
- (a) that—
 - (i) he has a history of absconding and is likely to abscond from any other description of accommodation; and
 - (ii) if he absconds it is likely that his physical, mental or moral welfare will be at risk; or
 - (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

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- (2) The Secretary of State may by regulations—
- (a) specify—
 - (i) exceptional cases where subsection (1) above is not to apply to children committed to the care of a local authority under section 23 of the Children and Young Persons Act 1969;
 - (ii) a maximum period beyond which a child may not be kept in such accommodation without the authority of a juvenile court; and
 - (iii) a maximum period for which a juvenile court may authorise a child to be kept in such accommodation;
 - (b) empower a juvenile court from time to time to authorise a child to be kept in such accommodation for such further period as the regulations may specify; and
 - (c) provide that the power conferred by virtue of paragraph (b) above shall be exercisable on the application of the local authority in whose care the child is.
- (3) It shall be the duty of a juvenile court before which a child is brought by virtue of this section to determine whether the criteria for keeping a child in accommodation provided for the purpose of restricting liberty are satisfied in his case; and if a court determines that the criteria are satisfied, it shall make an order authorising the child to be kept in such accommodation and specifying the maximum period for which he may be so kept.
- (4) On any adjournment of a hearing under subsection (3) above a juvenile court may make an interim order permitting the keeping of the child to whom the hearing relates during the period of the adjournment in accommodation provided for the purpose of restricting liberty.
- (5) An appeal shall lie to the Crown Court from a decision of a juvenile court under this section.
- (6) A juvenile court shall not exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless either—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.”.
- (2) In the ^{M4}Legal Aid Act 1974—
- (a) in section 28(3)(a) and (6), after “1969” there shall be inserted “or under section 21A of the ^{M5}Child Care Act 1980”; and
 - (b) at the end of section 29(1)(d) there shall be inserted
 - (e) where a child is brought before a juvenile court under section 21A of the Child Care Act 1980 and is not (but wishes to be) legally represented before that court.”.]

Textual Amendments

F3 Ss. 22–25, 27 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(7), Sch. 15

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Marginal Citations

M3 1980 c. 5.

M4 1974 c. 4.

M5 1980 c. 5.

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