



Foster Children (Scotland) Act 1984

1984 CHAPTER 56

Foster children for the purposes of the Act

1 Foster children.

Subject to section 2, a child is a foster child for the purposes of this Act if

- [^{F1}(a)] below the upper limit of the compulsory school age, and
 - (b) his care is undertaken ^{F2} . . . by a person who is not a relative or guardian of his.
- ^{F2}

Textual Amendments

- F1** Words in s. 1 substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4)(6), Sch. 12 para. 41(a), Sch. 14 para. 1(1); [S.I.1991/828, art. 3\(2\)](#)
- F2** Words in s. 1 repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4)(6)(7), Sch. 12 para. 41(b), Sch. 14 para. 27(4), [Sch. 15](#); [S.I. 1991/828, art. 3\(2\)](#)

2 Exceptions to section 1.

- (1) A child is not a foster child while he is [^{F3}being looked after by a local authority] or is boarded out by an education authority.
- (2) A child is not a foster child while he is in the care of any person—
 - (a) in premises in which any parent, adult relative or guardian of his is for the time being residing;
 - (b) in any residential establishment;
 - (c) in any school within the meaning of the ^{M1}Education (Scotland) Act 1980;
 - (d) in any hospital or in any [^{F4}accommodation provided by a care home service registered under [^{F5}Part 5 of the Public Services Reform (Scotland) Act 2010]]; or
 - (e) in any home or institution not specified in this section but maintained by a public or local authority; or

Changes to legislation: There are currently no known outstanding effects for the Foster Children (Scotland) Act 1984, Cross Heading: Foster children for the purposes of the Act. (See end of Document for details)

- [^{F6}(f) if he has been in that person's care for a period of less than 28 days and that person does not intend to undertake his care for any longer period.]
- (3) A child is not a foster child while he is in the care of any person in compliance with a supervision order within the meaning of the ^{M2}Children and Young Persons Act 1969 or a supervision requirement ^{F7} . . . or a [^{F8}community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46)].
- (4) A child is not a foster child while he is liable to be detained [^{F9}under the Mental Health (Care and Treatment) (Scotland) Act 2003.]
- (5) A child is not a foster child—
- (a) while he is placed in the care ^{F10}... of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of section 1 of the ^{M3}Adoption Act 1976 or [^{F11}section 119(1) of the Adoption and Children (Scotland) Act 2007 (asp 4)]^{F12} . . .
- (b) ^{F12}
- [^{F13}(6) The reference in subsection (1) above to a child being looked after by a local authority shall be construed as if it were a reference to which section 17(6) of the Children (Scotland) Act 1995 applies.]

Textual Amendments

- F3** Words in s. 2(1) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 35(2)(a)**; S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)
- F4** Words in s. 2(2)(d) substituted (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 12(2)**; S.S.I. 2002/162 arts. 2(f)(h) (subject to arts. 3-13)
- F5** Words in s. 2(2)(d) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 1 para. 5(a)**
- F6** S. 2(2)(f) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4)(6), Sch. 12 para. 42, **Sch. 14 para. 1(1)**; S.I. 1991/828, **art. 3(2)**
- F7** Words in s. 2(3) repealed (1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 35(2)(b), **Sch. 5**; S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)
- F8** Words in s. 2(3) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 2 para. 36**; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))
- F9** Words in s. 2(4) substituted (27.9.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **Sch. 1 para. 16(2)**
- F10** Words in s. 2(5)(a) repealed (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **Sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F11** Words in s. 2(5)(a) substituted (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **Sch. 2 para. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F12** S. 2(5)(b) and words immediately preceding it repealed (1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 35(2)(c), **Sch. 5**; S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)
- F13** S. 2(6) added (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 35(2)(d)**; S.I. 1996/3201, **art. 3(7)** (as amended by S.I. 1997/744, **arts. 2, 3**)

Modifications etc. (not altering text)

- C1** S. 2(5)(a) modified (1.11.1994) by S.I. 1994/2804, reg. 3, **Sch. 2 para. 3**
- C2** S. 2(5)(a) modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 5, **Schs. 4**

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C3 S. 2(5)(a) modified (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), reg. 1(2), **Sch. 4 para. 12**

Marginal Citations

M1 1980 c. 44.
M2 1969 c. 54.
M3 1976 c. 36.

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