



# Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37 1 Edw 8 and 1 Geo 6

F1

An Act to consolidate in their application to Scotland certain enactments relating to persons under the age of eighteen years. [1st July 1937]

## Extent Information

E1 Save as therein otherwise expressly provided, this Act extends to Scotland only see s. 113(3)

## Textual Amendments

F1 Act repealed in so far as it extends to Isle of Man (22.7.2004) by [Statute Law \(Repeals\) Act 2004](#) (c. 14), [Sch. 1 Pt. 17](#) Group 11(5)

## Modifications etc. (not altering text)

C1 Act amended by [Criminal Procedure \(Scotland\) Act 1975](#) (c. 21), [ss. 171\(1\)\(3\)-\(5\)](#), [368\(1\)\(3\)-\(5\)](#)  
Act modified (1.4.1996) by [1995 c. 46](#), [ss. 46\(1\)\(3\)\(6\)](#), [309\(2\)](#) (with s. 24(2))

## Commencement Information

I1 Act wholly in force at 1.7.1937 by virtue of s. 113(2) (now repealed)

## PART I

1—11. .... F2

## Textual Amendments

F2 Ss. 1—11 repealed by [Children Act 1958](#) (c. 65), [Sch. 3](#)

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

**PART II**

**PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER**

*Offences*

**12 Cruelty to persons under sixteen.**

(1) If any person who has attained the age of sixteen years and [<sup>F3</sup>who has parental responsibilities in relation to a child or to a young person under that age or has charge or care of a child or such a young person,] wilfully <sup>F4</sup>... ill-treats, neglects, abandons, or exposes him, or causes or procures him to be <sup>F4</sup>... ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence, and shall be liable—

- (a) on conviction on indictment, to a fine . . . <sup>F5</sup>, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding [<sup>F6</sup>ten]years;
- (b) on summary conviction, to a fine not exceeding [<sup>F7</sup>£400], or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding six months.

(2) For the purposes of this section—

- (a) a parent or other person legally liable to maintain a child or young person [<sup>F8</sup>or the legal guardian of a child or young person]shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under [<sup>F9</sup>the enactments applicable in that behalf];
- (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed, under the influence of drink, be deemed to have neglected the child in a manner likely to cause injury to his health.

(3) A person may be convicted of an offence under this section—

- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;
- (b) notwithstanding the death of the child or young person in question.

(4) Where any person who has attained the age of sixteen years is tried on indictment for the culpable homicide of a child or young person under the age of sixteen years [<sup>F10</sup>and he had parental responsibilities in relation to, or charge or care of, that child or young person], it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section, to find him guilty of that offence.

(5) . . . . . <sup>F11</sup>

(6) . . . . . <sup>F11</sup>

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F12(7) .....

#### Textual Amendments

- F3 Words in s. 12(1) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(2)(a)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F4 Words in s. 12(1) repealed (27.10.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 51(5)(a)**, 89(2); S.S.I. 2003/475, art. 2, sch.
- F5 Words repealed by Children Act 1975 (c. 72), **Sch. 4 Pt. III**
- F6 Word substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 45(1)(2)
- F7 Words substituted by Children Act 1975 (c. 72), **Sch. 3 para. 2**
- F8 Words in s. 12(2)(a) inserted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(2)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F9 Words Substuted by S.I. 1951/174 (1951 I, p. 1369), Sch.
- F10 Words in s. 12(4) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(2)(c)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F11 S. 12(5)(6) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), **Sch. 16**
- F12 S. 12(7) repealed (27.10.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 51(5)(b)**, 89(2); S.S.I. 2003/475, art. 2, sch.

13, 14. .... F13

#### Textual Amendments

- F13 Ss. 13, 14 repealed by Sexual Offences (Scotland) Act 1976 (c. 67), s. 20, **Sch. 2**

### 15 Causing or allowing persons under sixteen to be used for begging.

- (1) If any person causes or procures any child or young person under the age of sixteen years or, having [F14parental responsibilities in relation to, or having], charge, or care of such a child or young person, allows him, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise) he shall, on summary conviction, be liable to a fine not exceeding [F15level 2 on the standard scale], or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding three months.
- (2) If a person having t [F14parental responsibilities in relation to, or having], charge, or care of a child or young person is charged with an offence under this section, and it is proved that the child or young person was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child or young person to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises, or place for that purpose unless the contrary is proved.
- (3) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

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**Textual Amendments**

- F14** Words in s. 15(1)(2) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(3)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F15** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G**

**16 Giving exciseable liquor to children under five.**

If any person gives, or causes to be given, to any child under the age of five years any exciseable liquor, except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness, or other urgent cause, he shall, on summary conviction, be liable to a fine not exceeding [<sup>F16</sup>level 1 on the standard scale].

**Textual Amendments**

- F16** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289F, 289G**

**17** ..... <sup>F17</sup>

**Textual Amendments**

- F17** S. 17 repealed by **Licensing (Scotland) Act 1959 (c. 51), Sch. 12**

**18 Sale of tobacco, &c. to persons under sixteen.**

- (1) Any person who sells to a person <sup>F18</sup> . . . under the age of [<sup>F19</sup>eighteen] years any tobacco or cigarette papers, whether for his own use or not, shall be liable, [<sup>F20</sup>on summary conviction to a fine not exceeding level 4 on the standard scale.]

... <sup>F21</sup>

<sup>F22</sup>[(1A) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.]

- (2) If on application to a court of summary jurisdiction it is proved to the satisfaction of the court that any automatic machine for the sale of tobacco kept on any premises [<sup>F23</sup>has been used by any person] under the age of [<sup>F24</sup>eighteen] years, the court [<sup>F25</sup>shall] order the owner of the machine, or the person on whose premises the machine is kept, to take such precautions to prevent the machine being so used as may be specified in the order or, if necessary, to remove the machine, within such time as may be specified in the order, and if any person against whom such an order has been made fails to comply therewith, he shall be liable, on summary conviction, [<sup>F26</sup>to a fine not exceeding level 4 on the standard scale.]

- (3) It shall be the duty of a constable and of a park-keeper being in uniform to seize any tobacco or cigarette papers in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and any tobacco or cigarette papers so seized shall be disposed of, if seized by a constable, in such manner

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as the police authority may direct, and if seized by a park-keeper, in such manner as the authority or person by whom he was appointed may direct.

- (4) Nothing in this section shall make it an offence to sell tobacco or cigarette papers to, or shall authorise the seizure of tobacco or cigarette papers in the possession of, any person who is at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business, or is a boy messenger in uniform in the employment of a messenger company and employed as such at the time.
- (5) For the purposes of this section the expression “tobacco” includes cigarettes <sup>[F27]</sup>, any product containing tobacco and intended for oral or nasal use and smoking mixtures intended as a substitute for tobacco, and the expression “cigarettes” includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.
- <sup>[F28]</sup>(6) For the purposes of subsections (1) and (2) of this section, any substance sold in a container (whether sealed or not) shall, subject to subsections (7) to (9) of this section, be presumed to conform to the description of the substance on the container.
- (7) Where a prosecutor (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) intends to rely on subsection (6) of this section, he shall give notice of his intention to the accused or his agent not less than 14 days before the commencement of the trial.
- (8) The accused shall not be entitled to challenge the presumption in subsection (6) of this section, unless he or his agent gives notice to the said prosecutor of intention to do so not less than 7 days before the commencement of the trial.
- (9) A notice under subsection (7) or (8) of this section shall be by recorded delivery letter, and the execution of the recorded delivery shall be sufficient evidence of the date of posting and of intimation of the notice, which shall be presumed to have been intimated to the addressee on the day after the day on which it was posted, except that, in the case of a notice posted on a Friday or a Saturday, it shall be presumed to have been so intimated on the Monday next following.]

#### Textual Amendments

- F18** Word in s. 18(1) omitted (1. 3. 1992) by virtue of [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 2\(2\)\(a\)](#), (with s. 8(3)); S.I. 1992/332, [art.2](#)
- F19** Word in s. 18(1) substituted (1.10.2007) by [The Smoking, Health and Social Care \(Scotland\) Act 2005 \(Variation of Age Limit for Sale of Tobacco etc. and Consequential Modifications\) Order 2007 \(S.S.I. 2007/437\)](#), arts. 1, 2
- F20** Words in s. 18(1) substituted (1. 3. 1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 2\(2\)\(b\)](#), (with s. 8(3)); S.I. 1992/332, [art.2](#)
- F21** Proviso repealed by [Protection of Children \(Tobacco\) Act 1986 \(c. 34 SIF 20\)](#), s. 2(1)(a)(2)
- F22** S. 18(1A) inserted (1. 3. 1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 2\(3\)](#), (with s. 8(3)); S.I. 1992/332, [art.2](#)
- F23** Words in s. 18(2) substituted (1. 3. 1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 2\(4\)\(a\)](#), (with s. 8(3)(4)); S.I. 1992/332, [art.2](#)
- F24** Word in s. 18(2) substituted (1.10.2007) by [The Smoking, Health and Social Care \(Scotland\) Act 2005 \(Variation of Age Limit for Sale of Tobacco etc. and Consequential Modifications\) Order 2007 \(S.S.I. 2007/437\)](#), arts. 1, 2
- F25** Word substituted by [Protection of Children \(Tobacco\) Act 1986 \(c. 34, SIF 20\)](#), [s. 2\(1\)\(b\)\(2\)](#)
- F26** Words in s. 18(2) substituted (1. 3. 1992) by [Children and Young Persons \(Protection from Tobacco\) Act 1991 \(c. 23, SIF 20\)](#), [s. 2\(4\)\(b\)](#), (with s. 8(3)); S.I. 1992/332, [art.2](#)

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- F27** Words inserted by Protection of Children (Tobacco) Act 1986 (c. 34, SIF 20), s. 2(1)(c)
- F28** S. 18(6)–(9) inserted by Protection of Children (Tobacco) Act 1986 (c. 34, SIF 20), s. 2(1)(d)

**Modifications etc. (not altering text)**

- C2** In s. 18 definition of 'tobacco' applied (20. 2. 1993) by Children and Young Persons (Protection from Tobacco) Act 1991 (c. 23, SIF 20), s. 4(8); S.I. 1992/3227, art.2(2)
- C3** S. 18: power to modify conferred (26.3.2006 at 0600 hours) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 9, 43(3) (with s. 10); S.S.I. 2005/492, art. 3(d)
- C4** S. 18(2) saved (1. 3. 1992) by Children and Young Persons (Protection from Tobacco) Act 1991 (c. 23, SIF 20), s. 8(4)(5); S.I. 1992/332, art.2

19 ..... F29

**Textual Amendments**

- F29** S. 19 repealed by Consumer Credit Act 1974 (c. 39, SIF 60), s. 192(1)(4), Sch. 5

20 ..... F30

**Textual Amendments**

- F30** S. 20 repealed by Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), s. 137, Sch. 4

**21 Punishment of vagrants preventing children from receiving education.**

- (1) If a person habitually wanders from place to place and takes with him any child who has attained the age of five years, [<sup>F31</sup>or any young person who has not attained the age at which under the enactments relating to education children cease to be of school age], he shall, unless he proves that the child [<sup>F32</sup>or young person is not, by being so taken with him, prevented from receiving efficient education suitable to his age, ability and aptitude, be liable on conviction by a court of summary jurisdiction to a fine not exceeding [<sup>F33</sup>level 1 on the standard scale].]
- (2) Any constable who finds a person wandering from place to place and taking a child [<sup>F31</sup>or young person] with him may, if he has reasonable ground for believing that the person is guilty of an offence under this section, apprehend him without a warrant and . . . <sup>F34</sup>
- (3) Without prejudice to the requirements of [<sup>F35</sup>the <sup>M1</sup>Education (Scotland) Act 1962], as to school attendance or to proceedings thereunder, this section shall not, during the months of April to September inclusive, apply to any child whose parent or guardian is engaged in a trade or business of such a nature as to require him to travel from place to place, if a certificate has been obtained that the child has made not less than two hundred attendances at a public school during the months of October to March immediately preceding.

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#### Textual Amendments

- F31** Words inserted by [Education \(Scotland\) Act 1945 \(c. 37\), Sch. 4](#)
- F32** Words substituted by [Education \(Scotland\) Act 1945 \(c. 37\), Sch. 4](#)
- F33** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289F, 289G](#)
- F34** Words repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\), s. 95, Sch. 9 Pt. I](#)
- F35** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

#### Modifications etc. (not altering text)

- C5** [S. 21](#) amended by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), ss. 168, 364](#)

#### Marginal Citations

- M1** [1962 c. 47.](#)

## 22 Exposing children under seven to risk of burning.

If any person who has attained the age of sixteen years, [<sup>F36</sup>and who has parental responsibilities in relation to a child under the age of seven years or charge or care of such a child], allows the child to be in any room containing an open fire grate not sufficiently protected to guard against the risk of his being burnt or scalded without taking reasonable precautions against that risk, and by reason thereof the child is killed or suffers serious injury, he shall on summary conviction be liable to a fine not exceeding [<sup>F37</sup>level 1 on the standard scale]:

Provided that neither this section, nor any proceedings taken thereunder, shall affect any liability of any such person to be proceeded against by indictment for any indictable offence.

#### Textual Amendments

- F36** Words in [s. 22](#) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by [1995 c. 36, s. 105\(4\), Sch. 4 para. 7\(4\)](#) (with [s. 103\(1\)](#)); [S.I. 1996/2203, art. 3\(3\)](#), [Sch.](#)
- F37** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

## 23 Failing to provide for safety of children at entertainments.

- (1) Where there is provided in any building an entertainment for children, or an entertainment at which the majority of the persons attending are children, then, if the number of children attending the entertainment exceeds one hundred, it shall be the duty of the person providing the entertainment to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate, and to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and to take all other reasonable precautions for the safety of the children.
- (2) Where the occupier of a building permits, for hire or reward, the building to be used for the purpose of an entertainment, he shall take all reasonable steps to secure the observance of the provisions of this section.



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- (3) If any person on whom any obligation is imposed by this section fails to fulfil that obligation, he shall be liable, on summary conviction, to a fine not exceeding, in the case of a first offence, fifty pounds, and in the case of a second or subsequent offence one hundred pounds, and also, if the building in which the entertainment is given is licensed . . . <sup>F38</sup> under any of the enactments relating to the licensing of theatres and of houses and other places for music or dancing, the licence shall be liable to be revoked by the authority by whom the licence was granted.
- (4) A constable may enter any building in which he has reason to believe that such an entertainment as aforesaid is being, or is about to be, provided, with a view to seeing whether the provisions of this section are carried into effect, and an officer authorised for the purpose by an authority by whom licences are granted under any of the enactments referred to in the last foregoing subsection shall have the like power of entering any building so licensed by that authority.
- (5) . . . . . <sup>F39</sup>
- (6) This section shall not apply to any entertainment given in a private dwelling-house.

**Textual Amendments**  
**F38** Words repealed by [Cinemas Act 1985 \(c. 13, SIF 45A\)](#), s. 24(2), **Sch. 3**  
**F39** [S. 23\(5\)](#) repealed by [Children Act 1948 \(c. 43\)](#), s. 60, **Sch. 4 Pt. I**

24, 25. . . . . <sup>F40</sup>

**Textual Amendments**  
**F40** [Ss. 24, 25, 39–45, 47–55, 57\(1\)\(2\), 58, 59\(2\)–\(4\), 63, 67, 103, Sch. 1](#) repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**

26 . . . . . <sup>F41</sup>

**Textual Amendments**  
**F41** [S. 26](#) repealed by [Criminal Procedure \(Scotland\) Act 1938 \(c. 48\)](#), s. **11(2)**

*Supplemental*

**27 Interpretation of Part II.**

For the purposes of this Part of this Act—

<sup>F42</sup>  
. . . . .

Any person to whose charge a child or young person is committed by any person who has [<sup>F43</sup>parental responsibilities in relation to] him shall be presumed to have charge of the child or young person;



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Any other person having actual possession or control of a child or young person shall be presumed to have the care of him.

#### Textual Amendments

- F42** First para. in s. 27 repealed (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), Sch. 4 para. 7(5)(a), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F43** Words in second para. in s. 27 substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(5)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

### PART III

#### EMPLOYMENT

#### Modifications etc. (not altering text)

- C6** Pt III amended by Education (Scotland) Act 1962 (c. 47), s. 139; extended by Children and Young Persons Act 1963 (c. 37), s. 44(2)

#### *General Provisions as to Employment*

### 28 Restrictions on employment of children.

- (1) Subject to the provisions of this section and of any byelaws made thereunder, no child shall be employed—
- [<sup>F44</sup>(a) so long as he is under the age of [<sup>F45</sup>fourteen years];]
  - [<sup>F46</sup>(aa) to do any work other than light work; or]
  - (b) before the close of school hours on any day on which he is under obligation to attend school; or
  - [<sup>F47</sup>(c) before seven o'clock in the morning or after seven o'clock in the evening on any day; or]
  - (d) for more than two hours on any day on which he is under obligation to attend school; or
  - [<sup>F48</sup>(da) for more than twelve hours in any week in which he is required to attend school; or]
  - (e) for more than two hours on any Sunday; or
  - [<sup>F49</sup>(f) .....
  - [<sup>F50</sup>(g) for more than eight hours or, if he is under the age of fifteen years, for more than five hours in any day—
    - (i) on which he is not required to attend school, and
    - (ii) which is not a Sunday; or
  - (h) for more than thirty-five hours or, if he is under the age of fifteen years, for more than twenty-five hours in any week in which he is not required to attend school; or
  - (i) for more than four hours in any day without a rest break of one hour; or

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- (j) at any time in a year unless at that time he has had, or could still have, during a period in the year in which he is not required to attend school, at least two consecutive weeks without employment.]
- (2) An education authority may make byelaws with respect to the employment of children, and any such byelaws may distinguish between children of different ages and sexes and between different localities, trades, occupations and circumstances, and may contain provisions—
- (a) authorising—
- [<sup>F51</sup>(i) the employment [<sup>F52</sup>on an occasional basis] of children [<sup>F53</sup>aged thirteen years] (notwithstanding anything in paragraph (a) of the last foregoing subsection) by their parents or guardians in light agricultural or horticultural work];
- [<sup>F54</sup>(ia) the employment of children aged thirteen years (notwithstanding anything in paragraph (a) of the last foregoing subsection) in categories of light work specified in the byelaw.]
- (ii) the employment of children (notwithstanding anything in paragraph (b) of the last foregoing subsection) for not more than one hour before the commencement of school hours on any day on which they are under obligation to attend school;
- (b) prohibiting absolutely the employment of children in any specified occupation;
- (c) prescribing—
- (i) the age below which children are not to be employed;
- (ii) the number of hours in each day, or in each week, for which, and the times of day at which, they may be employed;
- (iii) the intervals to be allowed to them for meals and rest;
- (iv) the holidays or half-holidays to be allowed to them;
- (v) any other conditions to be observed in relation to their employment;
- so, however, that no such byelaws shall modify the restrictions contained in the last foregoing subsection save in so far as is expressly permitted by paragraph (a) of this subsection, and any restriction contained in any such byelaws shall have effect in addition to the said restrictions.

[<sup>F55</sup>(2A) In this section—

“light work” means work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed—

- (a) is not likely to be harmful to the safety, health or development of children; and
- (b) is not such as to be harmful to their attendance at school or to their participation in work experience in accordance with section 123 of the Education (Scotland) Act 1980 <sup>F56</sup>, or their capacity to benefit from the instruction received or, as the case may be, the experience gained;

“week” means any period of seven consecutive days; and

“year”, except in expressions of age, means a period of twelve months beginning with 1st January.]

[<sup>F57</sup>(3) Nothing in this section or in any byelaw made under this section shall prevent a child from [<sup>F58</sup>doing anything]—

- (a) under the authority of a licence granted under this Part of this Act; or

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- (b) in a case where by virtue of section 37(3) of the <sup>M2</sup>Children and Young Persons Act 1963 no licence under that section is required for him to [<sup>F59</sup>do it].]

#### Textual Amendments

- F44** S. 28(1)(a) substituted by [Children Act 1972 \(c. 44\), s. 1\(2\)](#)
- F45** Words in s. 28(1)(a) substituted (4.8.1998) by [S.I. 1998/276, reg. 8\(1\)\(2\)\(a\)](#)
- F46** S. 28(1)(aa) inserted (4.8.1998) by [S.I. 1998/276, reg. 8\(1\)\(2\)\(b\)](#)
- F47** S. 28(1)(c) substituted by [Children and Young Persons Act 1963 \(c. 37\), s. 34](#)
- F48** [S. 28\(1\)\(da\)](#) inserted (18.4.2006) by [The Children \(Protection at Work\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/140\), regs. 1\(1\), 2](#)
- F49** S. 28(1)(f) omitted (4.8.1998) by virtue of [S.I. 1998/276, reg. 8\(1\)\(2\)\(c\)](#) and repealed (31.12.1998) by [S.I. 1998/2857, reg. 1\(2\)\(b\)](#)
- F50** S. 28(1)(g)-(j) inserted (4.8.1998) by [S.I. 1998/276, reg. 8\(1\)\(2\)\(d\)](#)
- F51** S. 28(2)(a)(i) substituted by [Children Act 1972 \(c. 44\), s. 1\(2\)](#)
- F52** Words in s. 28(2)(a)(i) inserted (4.8.1998) by [S.I. 1998/276, reg. 8\(1\)\(3\)\(a\)](#)
- F53** Words in s. 28(2)(a)(i) substituted (9.6.2000) by [S.S.I. 2000/149, reg. 2\(1\)](#)
- F54** S. 28(2)(ia) inserted (4.8.1998) by [S.I. 1998/276, reg. 8\(1\)\(3\)\(b\)](#)
- F55** S. 28(2A) inserted (4.8.1998) by [1998/276, reg. 8\(1\)\(4\)](#)
- F56** Section 123 was amended by the [Self-Governing Schools etc. \(Scotland\) Act 1989 \(c.39\), Schedule 10, paragraph 8\(21\)](#).
- F57** S. 28(3) substituted by [Children and Young Persons Act 1963 \(c. 37\), Sch. 3 para. 29\(2\)](#)
- F58** Words in s. 28(3) substituted (4.8.1998) by [1998/276, reg. 8\(5\)\(a\)](#)
- F59** Words in s. 28(3)(b) substituted (4.8.1998) by [1998/276, reg. 8\(5\)\(b\)](#)

#### Marginal Citations

- M2** [1963 c. 37](#).

29 ..... <sup>F60</sup>

#### Textual Amendments

- F60** S. 29 repealed by [Employment Act 1989 \(c. 38, SIF 43:1\), ss. 10\(1\), 29\(4\), Sch. 3 Pt. I, Sch. 7 Pt. II](#)

### 30 Street trading.

[<sup>F61</sup>(1) Subject to subsection (2) of this section, no child shall engage or be employed in street trading.]

- (2) An education authority may make byelaws [<sup>F62</sup>authorising children who have attained the age of fourteen years to be employed by their parents in street trading to such extent as may be specified in the byelaws, and for regulating street trading under the byelaws by persons who are so authorised to be employed in such trading;]and byelaws so made may distinguish between persons of different ages and sexes and between different localities, and may contain provisions—

- (a) forbidding any such person to engage or be employed in street trading unless he holds a licence granted by the authority, and regulating the conditions on which such licences may be granted, suspended, and revoked;

<sup>F63</sup>(b) .....

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- (c) requiring such persons so engaged or employed to wear badges;
- (d) regulating in any other respect the conduct of such persons while so engaged or employed.

[<sup>F64</sup>(3) Byelaws made under subsection (2) shall contain provisions determining the days and hours during which, and the places at which, such persons may engage or be employed in street trading.]

#### Textual Amendments

**F61** S. 30(1) substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 9(a)**

**F62** Words substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 9(b)**

**F63** S. 30(2)(b) omitted (9.6.2000) by virtue of [S.S.I. 2000/149](#), **reg. 2(2)(a)**

**F64** S. 30(3) inserted (9.6.2000) by [S.S.I. 2000/149](#), **reg. 2(2)(b)**

#### Modifications etc. (not altering text)

**C7** S. 30 restricted by [Children and Young Persons Act 1963 \(c. 37\)](#), **s. 35(2)**

### 31 Penalties and legal proceedings in respect of general provisions as to employment.

- (1) If a person is employed in contravention of any of the foregoing provisions of this Part of this Act, or of the provisions of any byelaw [<sup>F65</sup>or regulations] made thereunder, the employer and any person (other than the person employed) to whose act or default the contravention is attributable shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding [<sup>F66</sup>level 3 on the standard scale]or, in the case of a second or subsequent offence, not exceeding [<sup>F66</sup>level 3 on the standard scale]:

Provided that, if proceedings are brought against the employer, the employer, upon complaint duly laid by him and on giving to the prosecutor not less than three days' notice of his intention, shall be entitled to have any person (other than the person employed) to whose act or default he alleges that the contravention was due, brought before the court as a party to the proceedings, and if, after the contravention has been proved, the employer proves to the satisfaction of the court that the contravention was due to the act or default of the said other person, that person may be convicted of the offence; and if the employer further proves to the satisfaction of the court that he has used all due diligence to secure that the provisions in question should be complied with, he shall be acquitted of the offence.

- (2) Where an employer seeks to avail himself of the proviso to the last foregoing subsection—
- (a) the prosecutor shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his charge against the other person, and to call rebutting evidence; and
  - (b) the court may make such order as it thinks fit for the payment of expenses by any party to the proceedings to any other party thereto.

[<sup>F67</sup>(2A) Where a person is charged under this section with contravening section 28(1)(j) of this Act the proviso in subsection (1) of this section shall not apply, but it shall be a defence for him to prove that he used all due diligence to secure that section 28(1)(j) should be complied with.]

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- (3) A [<sup>F68</sup>child], who engages in street trading in contravention of the provisions of the last foregoing section, or of any byelaw made thereunder, shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding [<sup>F66</sup>level 1 on the standard scale], or in the case of a second or subsequent offence, not exceeding [<sup>F66</sup>level 1 on the standard scale].

#### Textual Amendments

- F65** Words inserted (prosp.) by [Employment of Children Act 1973 \(c. 24\)](#), s. 3(4), **Sch. 1 Pt. I para. 6(a)**  
**F66** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**  
**F67** [S. 31\(2A\)](#) inserted (4.8.1998) by [S.I. 1998/276](#), **reg. 9**  
**F68** Word substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 10**

#### Modifications etc. (not altering text)

- C8** [S. 31\(1\)](#) extended by [Employment of Women, Young Persons, and Children Act 1920 \(c. 65, SIF 43:4\)](#), **s. 1(6)(a)** as substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), **Sch. 6 para. 1(a)**  
**C9** [S. 31\(2\)](#) extended by [Employment of Women, Young Persons, and Children Act 1920 \(c. 65, SIF 43:4\)](#), **s. 1(6)(a)** as substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), **Sch. 6 para. 1(a)**

### *Entertainments and Performances*

**32** ..... <sup>F69</sup>

#### Textual Amendments

- F69** [Ss. 32, 34\(3\)\(5\), 38\(1\)\(2\)\(7\)](#) repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**

**33** **Prohibition of persons under sixteen taking part in performances endangering life or limb.**

[<sup>F70</sup>No person under the age of sixteen years, and no child aged sixteen years,] shall take part in any [<sup>F71</sup>performance to which [<sup>F72</sup>section 37(2)] of the <sup>M3</sup>Children and Young Persons Act 1963 applies and] in which his life or limbs are endangered and every person who causes or procures [<sup>F73</sup>such a person or child], or, being his parent or guardian, allows him, to take part in such a performance, shall be liable on summary conviction to a fine not exceeding [<sup>F74</sup>level 3 on the standard scale] or, in the case of a second or subsequent offence, not exceeding [<sup>F74</sup>level 3 on the standard scale].

#### Textual Amendments

- F70** Words in [s. 33](#) substituted (9.6.2000) by [S.S.I. 2000/149](#), **reg. 2(3)(a)**  
**F71** Words substituted by [Children and Young Persons Act 1963 \(c. 37\)](#), **Sch. 3 para. 30**  
**F72** Words in [s. 33](#) substituted (4.8.1998) by [S.I. 1998/276](#), **reg. 10**  
**F73** Words in [s. 33](#) substituted (9.6.2000) by [S.S.I. 2000/149](#), **reg. 2(3)(b)**  
**F74** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**

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#### Marginal Citations

M3 1963 c. 37.

### 34 Restrictions on training for performances of a dangerous nature.

- (1) No [<sup>F75</sup>child]under the age of twelve years shall be trained to take part in performances of a dangerous nature, and no [<sup>F76</sup>child who has attained that age]shall be trained to take part in such performances except under and in accordance with the terms of a licence granted and in force under this section; and every person who causes or procures a person, or being his parent or guardian allows him, to be trained to take part in performances of a dangerous nature in contravention of this section, shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding [<sup>F77</sup>level 3 on the standard scale] or, in the case of a second or subsequent offence, not exceeding [<sup>F77</sup>level 3 on the standard scale].
- (2) An education authority may grant a licence for a [<sup>F78</sup>child who has attained the age of twelve years]to be trained to take part in performances of a dangerous nature.
- (3) ..... <sup>F79</sup>
- (4) A licence under this section shall specify the place or places at which the person is to be trained and shall embody such conditions as are, in the opinion of the authority, necessary for his protection, but a licence shall not be refused if the authority are satisfied that the person is fit and willing to be trained and that proper provision has been made to secure his health and kind treatment.
- (5) ..... <sup>F79</sup>

#### Textual Amendments

- F75** Word substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 12** (a)(i)
- F76** Words substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 12** (a)(ii)
- F77** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**
- F78** Words substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 12** (b)
- F79** **Ss. 32, 34(3)(5), 38(1)(2)(7)** repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**

#### Modifications etc. (not altering text)

- C10** **S. 34** amended by [Children and Young Persons Act 1963 \(c. 37\)](#), **s. 41(2)(3)**

### Supplemental

### 35 Byelaws.

- (1) A byelaw made under this Part of this Act shall not have effect until confirmed by the Secretary of State . . . <sup>F80</sup>
- (2) ..... <sup>F81</sup>
- (3) Byelaws so made may, without prejudice to any other method of proof, be proved in the like manner as that in which byelaws made under the [<sup>F82</sup>Local Government

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(Scotland) Act 1973 (c. 65)] , by a local authority may be proved, and [F83section 204] of that Act shall apply accordingly.

#### Textual Amendments

- F80** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**
- F81** S. 35(2) repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**
- F82** Words in s. 35(3) substituted (26.1.2009) by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\)](#), s. 128(2), **sch. 2 para. 2(a)** (with s. 127); S.S.I. 2009/9, art. 2(a), sch. 1
- F83** Words in s. 35(3) substituted (26.1.2009) by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\)](#), s. 128(2), **sch. 2 para. 2(b)** (with s. 127); S.S.I. 2009/9, art. 2(a), sch. 1

### 36 Powers of entry.

- (1) If it is made to appear to a justice by the education authority, or by any constable, that there is reasonable cause to believe that the provisions of this Part of this Act or of a byelaw [F84or regulation] made thereunder are being contravened with respect to any person, the justice may by order under his hand addressed to an officer of the education authority, or to a constable, empower him to enter, at any reasonable time within forty-eight hours of the making of the order, any place in or in connection with which the person in question is, or is believed to be, employed, or as the case may be, in which he is, or is believed to be, taking part in [F85a performance], [F86being trained, taking part in a sport, or working as a model,] and to make inquiries therein with respect to that person.
- [F87(2) Any authorised officer of the said authority or any constable may—
- (a) at any time enter any place used as a broadcasting studio . . . F88or film studio or used for the recording of a performance with a view to its use in a [F89programme service]or in a film intended for public exhibition and make inquiries therein as to any children taking part in performances to which [F90subsection (2) of]section 37 of the M4Children and Young Persons Act 1963 applies;
  - (b) at any time during the currency of a licence granted under the said section 37 or under the provisions of this Part of this Act relating to training for dangerous performances enter any place (whether or not it is such a place as is mentioned in paragraph (a) of this subsection) where the person to whom the licence relates is authorised by the licence to [F91do anything] or to be trained, and may make inquiries therein with respect to the person.]
- (3) Any person who obstructs any officer or constable in the due exercise of any powers conferred on him by or under this section, or who refuses to answer or answers falsely any inquiry authorised by or under this section to be made, shall be liable on summary conviction in respect of each offence to a fine not exceeding [F92level 2 on the standard scale].
- [F93(4) In this section—
- “broadcasting studio” means a studio used in connection with the provision of a programme service;
  - “programme service” has the same meaning as in the Broadcasting Act 1990]



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### Textual Amendments

- F84** Words inserted (prosp.) by [Employment of Children Act 1973 \(c. 24\)](#), s. 3(4), **Sch. 1 Pt. I para. 7**
- F85** Words substituted by [Children and Young Persons Act 1963 \(c. 37\)](#), **Sch. 3 para. 31**
- F86** Words in s. 36(1) substituted (4.8.1998) by S.I. 1998/276, **reg. 11(a)**
- F87** S. 36(2) substituted by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 43
- F88** Words inserted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s.57(1), **Sch. 5 para 5(1)** and repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#). s.203(1)(3), Sch. 12 Part II para. 1, Sch. 20 para. 4(1)(a). Sch. 21
- F89** Words substituted by virtue of [Broadcasting Act 1990 \(c. 42, SIF 96\)](#). s.203(1)(3), Sch. 20 para. 4(1)(a)
- F90** Words in s. 36(2)(a) substituted (4.8.1998) by S.I. 1998/276, **reg. 11(b)**
- F91** Words in s. 36(2)(b) substituted (4.8.1998) by S.I. 1998/276, **reg. 11(c)**
- F92** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G
- F93** S. 36(4) inserted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#) s. 57(1), Sch. 5 para. 5(2) (which is repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(3), **Sch. 21** the repeal being in force subject as mentioned in art. 3(3) of S.I. 1990/2347) and is substituted by virtue of s. 203(1), Sch. 2(0) para. 4(1)(b) of that 1990 Act

### Modifications etc. (not altering text)

- C11** S. 36(1) extended by [Employment of Women, Young Persons, and Children Act 1920 \(c. 65, SIF 43:4\)](#), s. 1 (6)(a) as substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), **Sch. 6 para. 1(a)**
- C12** S. 36(3) extended by [Employment of Women, Young Persons, and Children Act 1920 \(c.65, SIF 43:4\)](#), s. 1 (6)(a) as substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), **Sch. 6 para. 1(a)**

### Marginal Citations

- M4** 1963 c. 37.

## 37 Interpretation of Part III.

For the purposes of the foregoing provisions of this Part of this Act and of any byelaws [<sup>F94</sup>or regulations] made thereunder—

- [<sup>F95</sup>(a) The expression “child” means a person who is not for the purposes of the <sup>M5</sup>Education (Scotland) Act 1980 over school age;]
- (b) The expression “performance of a dangerous nature” includes all acrobatic performances and all performances as a contortionist;
- (c) The expression “street trading” includes the hawking of newspapers, matches, flowers and other articles, playing, singing or performing for profit, shoe-blacking and other like occupations carried on in streets or public places;
- [<sup>F96</sup>(d) Any reference to a day on which a child is under obligation to attend school shall be construed as a reference to a day upon which a meeting of the school he is attending is held;]
- (e) A person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour; and
- (f) A chorister taking part in a religious service or in a choir practice for a religious service shall not, whether he receives any reward or not, be deemed to be employed;
- (g) .....

F97

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**Textual Amendments**

- F94** Words inserted (prosp.) by [Employment of Children Act 1973 \(c. 24\)](#), s. 3(4), **Sch. I Pt. I para. 8**
- F95** S. 37(a) inserted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), **Sch. 3 Pt. III para. 13**
- F96** S. 37(d) substituted by [Education \(Scotland\) Act 1949 \(c. 19\)](#), **Sch. Pt. II** (which was repealed by [Education \(Scotland\) Act 1962 \(c. 47\)](#), **Sch. 8**)
- F97** S. 37(g) repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**

**Marginal Citations**

- M5** [1980 c.44 \(41:2\)](#).

**38 Savings.**

- (1) ..... **F98**
- (3) [<sup>F99</sup>The provisions of this Part of this Act relating to employment] shall not apply to a person detained in [<sup>F100</sup>a residential establishment where education is provided].
- (4) The said provisions shall be in addition to and not in substitution for any enactments relating to employment in factories, workshops, mines and quarries, or for giving effect to any international convention regulating employment.
- (5) ..... **F101**
- (7) ..... **F98**

**Textual Amendments**

- F98** Ss. 32, 34(3)(5), 38(1)(2)(7) repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**
- F99** Words substituted by [Children and Young Persons Act 1963 \(c. 37\)](#), **Sch. 3 para. 32**
- F100** Words substituted by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **Sch. 8 para. 6**
- F101** S. 38(5)(6) repealed by [Education \(Scotland\) Act 1945 \(c. 37\)](#), **Sch. 6**

**PART IV**

**PROTECTION OF CHILDREN AND YOUNG PERSONS IN RELATION TO CRIMINAL PROCEEDINGS**

**Modifications etc. (not altering text)**

- C13** Pt. IV amended by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **Sch. 2 Pt. I** paras, 1, 2

**39—** ..... **F102**  
**43.**

**Textual Amendments**

- F102** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**

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### *General Provisions as to Proceedings in Court*

**44, 45.** ..... <sup>F103</sup>

#### **Textual Amendments**

**F103** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**

<sup>F104</sup>**46 Power to prohibit publication of certain matter in newspapers.**

- (1) In relation to any proceedings in any court . . . <sup>F105</sup>, the court may direct that—
- (a) no newspaper report of the proceedings shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of [<sup>F106</sup>a person under the age of seventeen years] concerned in the proceedings, either as being the person [<sup>F107</sup>by or against] or in respect of whom the proceedings are taken, or as being a witness therein;
  - (b) no picture shall be published in any newspaper as being or including a picture of [<sup>F106</sup>a person under the age of seventeen years] so concerned in the proceedings as aforesaid;
- except in so far (if at all) as may be permitted by the direction of the court.
- (2) Any person who publishes any matter in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding [<sup>F108</sup>level 4 on the standard scale].

#### **Textual Amendments**

**F104** S. 46 repealed (E.W.)(S.) by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I** so far as relating to criminal proceedings; extended by [Children and Young Persons Act 1963 \(c. 37\)](#), s. **57(3)(4)**

**F105** Words repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**

**F106** Words substituted by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **Sch. 2 para. 7**

**F107** Words substituted by [Children and Young Persons Act 1963 \(c. 37\)](#), s. **57(1)**

**F108** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. **289G** and by [1995 c. 40, ss. 3, 7\(2\)](#), Sch. 1 para. 3(1), **Sch. 2 Pt. II** it is provided (1.4.1996) that s. 46(2) shall have effect as if the maximum fine that may be imposed on a summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine not exceeding £50

#### **Modifications etc. (not altering text)**

**C14** S. 46 extended with modifications by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 57(1), **Sch. 5 para. 5(3)**

**C15** S. 46 applied with modifications by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), **Sch. 20 para. 4(2)**

**C16** S. 46 applied (4.4.2005) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), ss. **111(5)**, 145(2); S.S.I. 2004/420, art. 3, sch. 5

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47— ..... F109  
54.

**Textual Amendments**

**F109** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, **Sch. 10 Pt. I**

*Juvenile Offenders*

55 ..... F110

**Textual Amendments**

**F110** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, **Sch. 10 Pt. I**

56 ..... F111

**Textual Amendments**

**F111** Ss. 56, 64 repealed by Criminal Justice (Scotland) Act 1949 (c. 94), **Sch. 12**

57 **Punishment of certain grave crimes.**

(1) ..... F112

(3) A person detained pursuant to the directions of the Secretary of State under <sup>F113</sup>section <sup>F114</sup>[205 or 206] of the <sup>M6</sup>Criminal Procedure (Scotland) Act 1975]. . . shall, while so detained, be deemed to be in legal custody.

(4) ..... F115

**Textual Amendments**

**F112** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, **Sch. 10 Pt. I**

**F113** Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 9 para. 7**

**F114** Words substituted by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 1**

**F115** S. 57(4) repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. XIV**

**Marginal Citations**

**M6** 1975 c. 21.

[<sup>F117</sup>58] ..... F116

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

**Textual Amendments**

- F116** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**
- F117** S. 58A inserted by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **Sch. 2 para. 16**

**[<sup>F118</sup>58A Committal for residential training.**

- (1) ..... <sup>F119</sup>
- (2) A child detained pursuant to the directions of the Secretary of State under [<sup>F120</sup>section 413 of the <sup>M7</sup>Criminal Procedure (Scotland) Act 1975] shall, while so detained, be deemed to be in legal custody.
- (3) Any child so detained as aforesaid may at any time be released conditionally or unconditionally by the Secretary of State, and any such child conditionally released shall be liable to recall on the directions of the Secretary of State and if he fails to comply with any condition of his release he may be apprehended without warrant and taken to the place from which he was released.]

**Textual Amendments**

- F118** S. 58A repealed (S.) by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), s. 70(2), **Sch. 2**
- F119** S. 58A(1) repealed (S.) by [Criminal Justice \(Scotland\) Act 1987 \(c. 1, SIF 39:1\)](#), s. 70(2), **Sch. 2**
- F120** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **Sch. 9 para. 8**

**Marginal Citations**

- M7** 1975 c.21.

**59**

- (1) ..... <sup>F121</sup>
- (2) ..... <sup>F122</sup>

**Textual Amendments**

- F121** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), s. 95, **Sch. 9 Pt. I**
- F122** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**

**60, 61. .... <sup>F123</sup>**

**Textual Amendments**

- F123** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), s. 95, **Sch. 9 Pt. I**

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

## 62 Power of Secretary of State to send certain juvenile offenders to approved schools.

The Secretary of State may by order direct that—

- (a) a person who is under the age of eighteen years and is undergoing detention in a Borstal institution; or
- (b) a child or young person with respect to whom he is authorised to give directions under <sup>F124</sup> . . . <sup>F125</sup> section 206 of the <sup>M8</sup>Criminal Procedure (Scotland) Act 1975; or
- (c) a young person who has been ordered to be imprisoned and has been pardoned by His Majesty on condition of his agreeing to undergo training in a <sup>F126</sup>residential establishment],

shall be transferred or sent to and detained in [<sup>F126</sup>a residential establishment] specified in the order; and any such order shall be an authority for the detention of the person to whom it relates until such date as may be specified in the order:

Provided that the date to be so specified shall be not later than that on which he will in the opinion of the Secretary of State attain the age of nineteen years nor later—

- (a) in the case of a person who was . . . <sup>F127</sup> sentenced to detention under the said subsection (2), than the date on which his detention would have expired; or
  - (b) in the case of a young person who has been ordered to be imprisoned and has been pardoned as aforesaid, than three years from the date as from which the order for his imprisonment began to run.
- <sup>F128</sup>(c) in the case of a person who was undergoing detention in a Borstal institution, than the end of the period for which he would have been liable to be detained therein.]

### Textual Amendments

**F124** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), Sch. 9 para. 9](#)

**F125** Words repealed by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\), s. 45\(2\), Sch. 3](#)

**F126** Words substituted by [Social Work \(Scotland\) Act 1968 \(c. 49\), Sch. 2 para. 18](#)

**F127** Words repealed by [Criminal Justice \(Scotland\) Act 1949 \(c. 94\), Sch. 12](#)

**F128** [S. 62 proviso \(c\)](#) added by [Criminal Justice \(Scotland\) Act 1949 \(c. 94\), Sch. 11](#)

### Marginal Citations

**M8** [1975 c. 21.](#)

## <sup>F129</sup>63 Register of children found guilty of offences.

In addition to any other register required by law, a separate register of children found guilty of offences and of children discharged on bond or put on probation shall be kept for every summary court by the chief constable or other person charged with the duty of keeping registers of convictions. The register shall apply to children of such age, and shall include such particulars, as may be directed by the Secretary of State, and it shall be the duty of the keeper of the register, within seven days after any such child has been dealt with by the court, to transmit a copy of the entry relating to the child to the education authority for the area in which the child resides.]

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

**Textual Amendments**

**F129** S. 63 inserted (1.4.1996) by 1995 c. 40 ss. 5, 7(2), Sch. 4 para. 3(1)(2)

**63** ..... **F130**

**Textual Amendments**

**F130** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, **Sch. 10 Pt. I**

**64** ..... **F131**

**Textual Amendments**

**F131** Ss. 56, 64 repealed by Criminal Justice (Scotland) Act 1949 (c. 94), **Sch. 12**

**65, 66.** ..... **F132**

**Textual Amendments**

**F132** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

**67** ..... **F133**

**Textual Amendments**

**F133** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, **Sch. 10 Pt. I**

**68–80** ..... **F134**

**Textual Amendments**

**F134** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**



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*Changes to legislation: There are currently no known outstanding effects for the  
Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

## PART V

### REMAND HOMES, APPROVED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

81 ..... F135

#### Textual Amendments

**F135** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3  
repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

82 ..... F136

#### Textual Amendments

**F136** Ss. 82, 86 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I** and Children and  
Young Persons Act 1969 (c. 54), s. 72, **Sch. 6**

### *Approved Schools*

83— ..... F137  
85.

#### Textual Amendments

**F137** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3  
repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

86 ..... F138

#### Textual Amendments

**F138** Ss. 82, 86 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I** and Children and  
Young Persons Act 1969 (c. 54), s. 72, **Sch. 6**

<sup>F139</sup>87 **Power to send children and young persons from England, Northern Ireland, Isle  
of Man and Channel Islands to approved schools in Scotland.**

[<sup>F140</sup>(1) Any person detained in a training school under the law in force in Northern Ireland  
may, with the consent of the Secretary of State, be transferred by order of the  
competent authority in Northern Ireland to such place in Scotland as the Secretary  
of State may direct for the purposes of undergoing residential training, and shall be  
subject to the provisions of this Act and of the <sup>M9</sup>Criminal Justice (Scotland) Act  
1963 [<sup>F141</sup>and of the <sup>M10</sup>Criminal Procedure (Scotland) Act 1975]]<sup>F142</sup> and of the Prisons

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*Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

(Scotland) Act 1989] as if the order sending him to the school in Northern Ireland were an order for committal for residential training made under [F143section 413 of the said Act of 1975] made upon the same date, and as if the order were an authority for his detention for a period not exceeding the period for which he might be detained under the training school order made in respect of him.]

- (2) [F144The Secretary of State] may at any time by order direct that a person who under the last foregoing subsection has been transferred to an approved school in Scotland from a school in . . . F145 Northern Ireland shall be retransferred to the last-mentioned school, or to such other school as may be specified by the competent authority in . . . F145 Northern Ireland, and thereupon the manager of that school shall receive him accordingly.
- (3) If under any law of the Isle of Man or of any of the Channel Islands a court is empowered to order children or young persons under seventeen years of age to be sent to approved schools in Scotland and if by that law provision satisfactory to [F144the Secretary of State] is made—
- (a) for the expenses of the conveyance of the children or young persons, and of their reconveyance when discharged, or released [F146under supervision];
  - (b) for contributions towards the expenses of the managers of the school; and
  - (c) for the contribution (if any) to be made by the parent or person legally liable to maintain a child or young person so sent, and the mode in which such contribution is to be raised,

a child or young person with respect to whom such an order is made by a court under the said law may be received into such [F147place in Scotland as the Secretary of State may direct for the purposes of undergoing residential training, and after his transfer to that place may be dealt with and shall be subject to the provisions of this Act and of the Criminal Justice (Scotland) Act 1963 [F141and of the M11Criminal Procedure (Scotland) Act 1975][F142and of the Prisons (Scotland) Act 1989] as if the order were an order for committal for residential training made under [F143section 413 of the said Act of 1975] made upon the same date].

- (4) A person so ordered by the competent authority in . . . F145 Northern Ireland or by a court in the Isle of Man or the Channel Islands to be transferred or sent to an approved school in Scotland, or so ordered by [F144the Secretary of State] to be retransferred to a school in . . . F145 Northern Ireland, may be conveyed in the custody of any constable or other person acting under a warrant issued by the competent authority in . . . F145 Northern Ireland, or by a court in the Isle of Man or the Channel Islands, or by [F144the Secretary of State], as the case may be, to the school to which he is ordered to be transferred, sent or retransferred, and he shall during his conveyance to that school be deemed to be in legal custody.
- (5) In this section the expression “competent authority” means, . . . F145, in relation to Northern Ireland, the Minister of Home Affairs for Northern Ireland, or such authority or person as may be designated by the Parliament of Northern Ireland to exercise the powers conferred by this section on the competent authority in Northern Ireland.

- (6) . . . . . F148

#### Textual Amendments

- F139** S. 87 repealed (E.W.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72, [Sch. 6](#)
- F140** S. 87(1) substituted by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), [Sch. 8 para. 7\(1\)](#)
- F141** Words inserted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 9 para. 10](#)

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

- F142** Words inserted by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), **Sch. 2 para. 2**
- F143** Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 9 para. 10**
- F144** Words substituted by virtue of Reorganisation of Offices (Scotland) Act 1939 (c. 20), s. 1(1)(6)(b)
- F145** Words repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**
- F146** Words substituted by Criminal Justice (Scotland) Act 1963 (c. 39), s. 52, **Sch. 5**
- F147** Words substituted by Social Work (Scotland) Act 1968 (c. 49), **Sch. 8 para. 7(3)**
- F148** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

**Modifications etc. (not altering text)**

- C17** S. 87(2)-(4) amended by Social Work (Scotland) Act 1968 (c. 49), **Sch. 8 para. 7(2)**
- C18** Reference to Minister of Home Affairs for Northern Ireland in s. 87(5) to be construed as reference to head of the Department of Home Affairs for Northern Ireland: Northern Ireland Constitution Act 1973 (c. 36), **Sch. 5 para. 7(1)**

**Marginal Citations**

- M9** 1963 c. 37.
- M10** 1975 c. 21.
- M11** 1975 c. 21.

88— ..... **F149**  
95.

**Textual Amendments**

- F149** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

**PART VI**

96— ..... **F150**  
98.

**Textual Amendments**

- F150** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

99 ..... **F151**

**Textual Amendments**

- F151** S. 99 repealed by Children Act 1948 (c. 43), **Sch. 4 Pt. II**

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

**PART VII**

MISCELLANEOUS AND GENERAL

**100** ..... <sup>F152</sup>

**Textual Amendments**  
**F152** Ss. 100, 101(1) repealed by National Assistance Act 1948 (c. 29), s. 62, **Sch. 7 Pt. III**

**101 Powers, duties and expenses of local authorities, &c.**

(1) ..... <sup>F153</sup>

(2) Expenses incurred under this Act by an education authority shall be defrayed in like manner as expenses of the authority under [<sup>F154</sup>the Education (Scotland) Act 1962], . . . <sup>F155</sup>

Provided that expenses incurred in respect of a child or young person brought to a poorhouse under this Act shall form part of the establishment charges of the poorhouse.

[<sup>F156</sup>(2A) Expenses incurred under this Act by a local authority shall be defrayed in like manner as the expenses of that authority under the <sup>M12</sup>Social Work (Scotland) Act 1968.]

(3) Expenses incurred under this Act by a police authority shall be defrayed in like manner as expenditure for administration of the police, . . . <sup>F157</sup>

(4) ..... <sup>F158</sup>

(5) ..... <sup>F159</sup>

(7) A local authority, an education authority . . . <sup>F155</sup> or a committee to whom any powers of any such authority under this Act have been delegated, may by resolution empower the clerk or other officer of the authority to exercise in the name of the authority in any case which appears to him to be one of urgency any powers of the authority or, as the case may be, of the committee with respect to the institution of proceedings under this Act.

(8) ..... <sup>F160</sup>

**Textual Amendments**  
**F153** Ss. 100, 101(1) repealed by National Assistance Act 1948 (c. 29), s. 62, **Sch. 7 Pt. III**  
**F154** Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 17(2)(a)  
**F155** Words repealed by National Assistance Act 1948 (c. 29), s. 62, **Sch. 7 Pt. III**  
**F156** S. 101(2A) inserted by Social Work (Scotland) Act 1968 (c. 49), **Sch. 8 para. 8**  
**F157** Words repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, **Sch. 14**  
**F158** S. 101(4) repealed by Valuation and Rating (Scotland) Act 1956 (c. 60), **Sch. 7 Pt. III**  
**F159** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**  
**F160** S. 101(8) repealed by Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 (c. 64), **Sch. 6 Pt. III**

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

### Marginal Citations

M12 1968 c. 49.

## Supplementary Provisions as to Legal Proceedings

102 ..... F161

### Textual Amendments

F161 S. 102 repealed by Children Act 1948 (c. 43), Sch. 4 Pt. I

103 ..... F162

### Textual Amendments

F162 Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, Sch. 10 Pt. I

### [<sup>F163</sup>103 Proof of age a defence.

Where a person is charged with an offence under this Act in respect of a person apparently under a specified age, it shall be a defence to prove that the person was actually of or over that age.]

### Textual Amendments

F163 S. 103 added (1.4.1996) by 1995 c. 40. ss. 5, 7(2), Sch. 4 para. 3(1)(3)

### 104 Evidence of wages of defendant.

In any proceedings under this Act a copy of an entry in the wages book of any employer of labour, or if no wages book be kept a written statement signed by the employer or by any responsible person in his employ, shall be evidence that the wages therein entered or stated as having been paid to any person, have in fact been so paid.

### 105 Summary jurisdiction.

- (1) Subject to the provisions of this Act, all orders of a court of summary jurisdiction under this Act shall be made, and all proceedings in relation to any such orders shall be taken, in manner [<sup>F164</sup>provided by the <sup>M13</sup>Criminal Procedure (Scotland) Act 1975].
- (2) Any magistrate who, by virtue of a local Act had jurisdiction before the first day of April nineteen hundred and nine for any of the purposes of the <sup>M14</sup>Prevention of Cruelty to Children Act 1904, shall have jurisdiction for the like purposes of Part II of this Act.

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

**Textual Amendments**

**F164** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **Sch. 9 para. 11**

**Marginal Citations**

**M13** 1975 c. 21.  
**M14** 1904 c. 15.

*Supplementary Provisions as to Secretary of State*

**106** ..... **F165**

**Textual Amendments**

**F165** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), s. 95, **Sch. 9 Pt. I**

**107** †**Exchequer grants and expenses of Secretary of State and Scottish Education Department.**

- (1) There shall be paid out of money provided by Parliament—
  - (a) ..... **F166**
  - (b) any expenses incurred by the Secretary of State . . . **F167** in the administration of this Act.
- (2) ..... **F168**

**Textual Amendments**

**F166** S. 107(1)(a) repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), s. 95, **Sch. 9 Pt. I**  
**F167** Words repealed by [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\)](#), **Sch.**  
**F168** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), s. 95, **Sch. 9 Pt. I**

**Modifications etc. (not altering text)**

**C19** Unreliable marginal note.

**108** ..... **F169**

**Textual Amendments**

**F169** S. 108 repealed by [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\)](#), **Sch.**

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

## General

109 ..... F170

### Textual Amendments

F170 Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, Sch. 9 Pt. I

## 110 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is say:—

..... F171  
“Borstal institution” means an institution established under [F172section 31 of the M15Prisons (Scotland) Act 1952];

“Certificate,” “exciseable liquor,” and “permitted hours” have the like meaning as in the Licensing (Scotland) Acts, 1903 to 1923;

“Child” (except [F173in [F174Parts III and IV]] of this Act) means a person under the age of fourteen years;

..... F175  
“Court of summary jurisdiction” means the sheriff or any two or more justices of the peace or any magistrate or magistrates by whatever name called officiating under the provisions of any general or local police Act;

“Guardian,” in relation to a child or young person, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person;

..... F176  
“Justice” . . . F177 includes the sheriff and any such magistrate as aforesaid;

..... F178  
“Legal guardian” in relation to a child or young person means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

“Licensed premises” means premises for which a certificate within the meaning of the Licensing (Scotland) Acts, 1903 to 1923, is held, and “bar” in relation to any licensed premises means any open drinking bar or any part of the premises exclusively or mainly used for the sale and consumption of exciseable liquor;

[F179“Local authority” means a [F180council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

[F181“parental responsibilities” has the same meaning as in section 1(3) of the Children (Scotland) Act 1995 and includes the responsibilities which a father would have as a parent but for the operation of section 3(1)(b) of that Act;]

..... F176  
“Passage” includes common close, or common stair, or common passage;

[F182“place of safety” has the meaning give by section 93(1) of the Children (Scotland) Act 1995;]

..... F183



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“Prescribed” means prescribed by regulations made by the Secretary of State . . .  
F184,

“Public place” includes any public park, garden, sea beach or railway station, and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

F185

[F186[F182“residential establishment” has the meaning given by the said section 93(1);]]

“Street” includes any highway and any public bridge, road, lane, footway, square, court, alley or passage whether a thoroughfare or not;

[F187“Training school order” has the same meaning as in the M16Social Work (Scotland) Act 1968];

“Young person” means a person who has attained the age of fourteen years and is under the age of seventeen years.

- (2) . . . . . F188
- (3) (a) For the purpose of any provision of this Act referring to a court acting for any place—
- (i) a court entitled to exercise jurisdiction in any place shall be deemed to be a court acting for that place;
  - (ii) the sheriff court, and the justice of the peace court for any county . . . F177 shall each be deemed to be a court acting for the same place as the burgh or police court of any burgh situated in that county or area, as the case may be;
  - (iii) the sheriff court for any county shall be deemed to be a court acting for the same place as the justice of the peace court for that county;
  - (iv) . . . . . F189
- and save as aforesaid no court shall be deemed to be a court acting for the same place as any other court.
- (b) . . . . . F188
- (4) References in this Act to findings of guilty and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.
- (5) References in this Act to any enactment or to any provision in any enactment shall, unless the context otherwise requires, be construed as references to that enactment or provision as amended by any subsequent enactment including this Act.

#### Textual Amendments

- F171** Definitions repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\), s. 95, Sch. 9 Pt. I](#)
- F172** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)
- F173** Words substituted by [Education \(Scotland\) Act 1945 \(c. 37\), Sch. 4](#)
- F174** Words substituted by [Social Work \(Scotland\) Act 1968 \(c. 49\), Sch. 8 para. 10](#)
- F175** Definition repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 460, Sch. 9 para. 12](#)
- F176** Definitions repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\), s. 95, Sch. 9 Pt. I](#)
- F177** Words repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\), s. 95, Sch. 9 Pt. I](#)
- F178** Definition repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F179** Definition substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 81\(a\)](#)
- F180** Words in s. 110(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 21](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)

*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

- F181** Definition of “parental responsibilities” inserted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(6)(a)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F182** Definition of “place of safety” and “residential establishment” substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(6)(b)(c)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**
- F183** Definition repealed by Police (Scotland) Act 1967 (c. 77), s. 52, **Sch. 5 Pt. II**
- F184** Words repealed by Reorganisation of Offices (Scotland) Act 1939 (c. 20), **Sch.**
- F185** Definition repealed by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 460, **Sch. 9 para. 12**
- F186** Definition added by Social Work (Scotland) Act 1968 (c. 49), **Sch. 8 para. 10**
- F187** Definition inserted by Social Work (Scotland) Act 1968 (c. 49), **Sch. 8 para. 10**
- F188** S. 110(2)(3)(b) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
- F189** S. 110(3)(a)(iv) repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

**Modifications etc. (not altering text)**

- C20** Jurisdiction of justice of the peace courts, burgh courts and police courts now exercisable by district courts: **District Courts (Scotland) Act 1975 (c. 20), ss. 1(1), 3(1)**
- C21** Reference to sheriff court for a county to be construed as reference to sheriff court of a sheriffdom: **Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 1 para. 1**
- C22** The text of these definitions, now spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.91

**Marginal Citations**

- M15** 1952. c. 61.
- M16** 1968 c. 49.

111, ..... **F190**  
112.

**Textual Amendments**

- F190** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by Social Work (Scotland) Act 1968 (c. 49), s. 95, **Sch. 9 Pt. I**

**113 †Short title, commencement, extent and repeals.**

- (1) This Act may be cited as the Children and Young Persons (Scotland) Act 1937.
- (2) ..... **F191**
- (3) Save as therein otherwise expressly provided, this Act shall extend only to Scotland.
- (4) ..... **F191**

**Textual Amendments**

- F191** S. 113(2)(4), **Sch. 4** repealed by Statute Law Revision Act 1950 (c. 6)

**Modifications etc. (not altering text)**

- C23** Unreliable marginal note.

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*Status: Point in time view as at 26/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937. (See end of Document for details)*

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## SCHEDULE

1. ....  
F192

**Textual Amendments**

**F192** Ss. 24, 25, 39–45, 47–55, 57(1)(2), 58, 59(2)–(4), 63, 67, 103, Sch. 1 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**

## SCHEDULE 2,

3. ....  
F193

**Textual Amendments**

**F193** Ss. 59(1), 60, 61, 65, 66, 68–81, 83–85, 87(6), 88–98, 101(5)(6), 106, 107(2), 109, 111, 112, Schs. 2, 3 repealed by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), s. 95, **Sch. 9 Pt. I**

## SCHEDULE

4. ....  
F194

**Textual Amendments**

**F194** S. 113(2)(4), Sch. 4 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

**Status:**

Point in time view as at 26/01/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937.