



Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37

PART I

CHILD LIFE PROTECTION

1 Notices to be given by persons receiving children for reward

- (1) Where a person undertakes for reward the nursing and maintenance of a child under the age of nine years apart from his parents, or having no parents, he shall give notice in writing thereof to the local authority:—
- (a) in the case of a child not already in his care, being the first child proposed to be received by him for reward in the dwelling occupied or proposed to be occupied for the purpose, not less than seven days before he receives the child;
 - (b) in the case of any other child not already in his care, not less than forty-eight hours before he receives the child; and
 - (c) in the case of a child already in his care without reward, within forty-eight hours after entering into the undertaking :

Provided that, in any proceedings in respect of a failure to give such notice as aforesaid, it shall be a defence for the accused person to prove that the child was received by him upon an emergency and that notice was given by him within twelve hours thereafter.

For the purposes of this subsection, an undertaking shall be deemed to be an undertaking for reward if there is any payment or gift of money or money's worth, or any promise to pay or give money or money's worth, irrespective of whether there is any intention of making profit.

- (2) The notice required by the preceding subsection shall state the name and sex of the child, the date and place of his birth, the name of the person undertaking his nursing and maintenance, the dwelling within which he is to be, or is being, kept and the name of the person from whom he is to be, or was, received.

Status: This is the original version (as it was originally enacted).

(3) Any reference in the following provisions of this Part of this Act to a child in respect of whom such a notice as aforesaid is required to be given shall be construed as including a reference to a child under the age of nine years in respect of whom such a notice has been given and who is still living apart from his parents, if any, with the person by whom the notice was given.

(4) If a person who is maintaining a child in respect of whom notice is required to be given under this Part of this Act changes his residence, he shall at least seven days before so doing give to the local authority notice in writing of the change, and, where the residence to which he moves is situate in the area of another local authority, he shall at least seven days before so moving give to that local authority the like notice as respects each child in his care as is by this section required to be given on the first reception of a child:

Provided that, where an immediate change of residence is necessitated by any emergency, a notice under this subsection may be given at any time within forty-eight hours after the change of residence.

(5) If any such child dies or is removed from the care of the person who has undertaken his nursing and maintenance, that person shall, within twenty-four hours thereof, give to the local authority and to the person from whom the child was received notice in writing of the death or removal, and in a case of removal the notice shall also state the name and address of the person to whose care the child has been transferred.

(6) If any person required to give a notice under this section fails to give the notice before the latest time specified for giving the notice, he shall be guilty of an offence under this Part of this Act, and, if the consideration for the nursing and maintenance of the child in respect of which notice ought to have been given consisted in whole or in part of a lump sum, the person failing to give the notice shall, in addition to any other penalty under this Part of this Act, be liable to forfeit that sum or such less sum as the court having cognizance of the case may deem just, and the sum forfeited shall be applied for the benefit of the child in such manner as the court may direct.

For the purposes of any enactment by which the time for taking proceedings is limited, an offence under this subsection shall be deemed to continue so long as the child in respect of whom a notice ought to have been given remains in the care of the offender without any notice having been given.

(7) Any reference in this Part of this Act to a notice required to be given thereunder or by or under any provision thereof shall be construed as including a reference to a notice required to be given under any enactment relating to infant life protection repealed by this Act, and any person who at the commencement of this Act is nursing and maintaining for reward a child in respect of whom a notice required to be given under any such enactment so repealed has not been given before the latest time specified for giving such notice shall be deemed to be guilty of an offence under the last foregoing subsection.

2 Appointment and powers of inspectors, and c

(1) It shall be the duty of every local authority to provide for the execution of this Part of this Act within their area, and for that purpose they shall from time to time make inquiry whether there are any persons residing therein who undertake the nursing and maintenance of children in respect of whom notice is required to be given under this Part of this Act.

- (2) If in the area of any local authority any persons are found to undertake the nursing and maintenance of such children as aforesaid, the local authority shall appoint one or more persons to be child protection visitors, whose duty it shall be from time to time to visit any children in respect of whom notice is required to be given under this Part of this Act, and the premises in which they are kept, in order to satisfy themselves as to the health and well-being of the children or to give any necessary advice or directions as to the care of their health and their maintenance :

Provided that the local authority may, either in addition to or in lieu of appointing child protection visitors, authorise in writing one or more suitable persons to exercise the powers of such visitors, subject to such terms and conditions as may be stated in the authorisation, and, where any children have been placed out to nurse in the area of the authority by any philanthropic society, may, if satisfied that the interests of the children are properly safeguarded, so authorise the society to exercise those powers as respects those children, subject, however, to the obligation to furnish periodical reports to the local authority.

Where a local authority appoint or authorise one person only to act under this subsection, that person and, where they so appoint or authorise two or more persons, one at least of those persons, shall be a woman.

- (3) A local authority may exempt from being visited, either unconditionally or subject to such conditions as they think fit, any particular premises within their area which appear to them to be so conducted that it is unnecessary that they should be visited.
- (4) If any person undertaking the nursing and maintenance of any such children as aforesaid refuses to allow any such visitor or other person to visit or examine the children or the premises in which they are kept, he shall be guilty of an offence under this Part of this Act.
- (5) If any such visitor or other person is refused admittance to any premises in contravention of this Part of this Act, or has reason to believe that any children under the age of nine years are being kept in premises in contravention of this Part of this Act, he may apply to a justice, who, on being satisfied, on information on oath, that there is reasonable ground for believing that an offence under this Part of this Act has been committed, may grant a warrant authorising the visitor or other person to enter the premises for the purpose of ascertaining whether any offence under this Part of this Act has been committed, and if the occupier of the premises or any other person obstructs or causes or procures to be obstructed any visitor or other person acting in pursuance of such a warrant, he shall be guilty of an offence under this Part of this Act.

3 Persons prohibited from receiving children for reward

A child in respect of whom notice is required to be given under this Part of this Act, shall not, without the written sanction of the local authority, be kept—

- (a) by any person from whose care any child has been removed under this Part of this Act, or Part I of the Children Act, 1908, or the Infant Life Protection Act, 1897; or
- (b) in any premises from which any child has been removed under this Part of this Act, or Part I of the Children Act, 1908, by reason of the premises being dangerous or insanitary, or has been removed under the Infant Life Protection Act, 1897, by reason of the premises being so unfit as to endanger his health; or

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- (c) by any person who has been convicted of any offence under sections twelve, thirteen, fourteen, fifteen, or twenty-two of this Act or under Part II of the Children Act, 1908, or of any offence of cruelty under the Prevention of Cruelty to Children Act, 1904;

and any person keeping a child contrary to this section, or causing a child to be so kept, shall be guilty of an offence under this Part of this Act.

4 Powers of local authority to prevent overcrowding

The local authority may fix the maximum number of children under the age of nine years who may be kept in any dwelling in which there is any child in respect of whom notice is required to be given under this Part of this Act and may also impose conditions to be complied with so long as the number of children kept in the dwelling exceeds a specified number.

If the maximum number so fixed is exceeded, or if any condition so imposed is not complied with, a person who keeps in that dwelling a child with respect to whom such a notice is required to be given as aforesaid, shall be guilty of an offence under this Part of this Act.

5 Removal of children kept in unsuitable premises, or by unsuitable persons

- (1) If a child in respect of whom notice is required to be given under this Part of this Act is about to be received or is being kept—
 - (a) in any premises which are overcrowded, insanitary or dangerous; or
 - (b) by any person who, by reason of old age, infirmity, ill-health, ignorance, negligence, inebriety, immorality or criminal conduct, or for any other reason, is unfit to have care of him; or
 - (c) in any premises or by any person in contravention of any of the provisions of this Part of this Act; or
 - (d) in an environment which is detrimental to the child;

the sheriff may, on the application of the local authority, make an order directing the removal of the child to a place of safety until he can be restored to his relatives, or until other arrangements can be made with respect to him; and, upon proof that there is imminent danger to the health or well-being of the child concerned, a justice may exercise the like power on the application of a visitor or other person appointed or authorised to execute the provisions of this Part of this Act, and, if need be, may exercise that power *ex parte*.

- (2) An order made under the foregoing subsection may be enforced by a constable, or by a visitor or other person appointed or authorised as aforesaid; and any person who refuses to comply with such an order upon its being produced, or who obstructs any such constable, visitor or person as aforesaid in the enforcement of the order, shall be guilty of an offence under this Part of this Act.

6 Notice to procurator fiscal

- (1) In the case of the death of a child in respect of whom notice is required to be given under this Part of this Act, the person who had the care of the child shall, within twenty-four hours of the death, give notice in writing thereof to the procurator fiscal of the district within which the body of the child lies, and the procurator fiscal shall hold an inquiry into the cause of death, unless there is produced to him a certificate under

the hand of a duly qualified medical practitioner certifying that that practitioner has personally attended the child during his last illness, and specifying the cause of death, and the procurator fiscal is satisfied that there is no ground for holding an inquiry.

- (2) If any person required to give a notice under this section fails to give the notice within the time specified for the purpose, he shall be guilty of an offence under this Part of this Act.

7 Avoidance of policies of life insurance of children kept for reward

A person who keeps a child in respect of whom notice is required to be given under this Part of this Act shall be deemed to have no interest in the life of the child for the purposes of the Life Assurance Act, 1774, and, if any such person directly or indirectly insures or attempts to insure the life of such a child, he shall be guilty of an offence under this Part of this Act, and, if any company, society, or person knowingly issues, or procures or attempts to procure to be issued, to or for the benefit of such a person as aforesaid or to any person on his behalf, a policy on the life of such a child, the company, society, or person shall be guilty of an offence under this Part of this Act.

8 Provisions as to notices

- (1) If any person required to give a notice under this Part of this Act knowingly or wilfully makes, or causes or procures any other person to make, any false or misleading statement in any such notice, he shall be guilty of an offence under this Part of this Act.
- (2) Any notice by this Part of this Act required to be given to a local authority may be sent by post in a registered letter addressed to them or their clerk at their offices or to some other officer of the local authority, duly authorised in that behalf: any notice so required to be given to a procurator fiscal may be sent by post in a registered letter addressed to him at his office or at his residence, and any notice so required to be given to any other person may be sent by post in a registered letter addressed to him at his last known place of abode or permanent address.

9 Prohibition of anonymous advertisements offering to undertake care of children

- (1) No advertisement indicating that a person or society will undertake, or will arrange for, the nursing and maintenance of a child under the age of nine years shall be published unless that person's name and residence, or, as the case may be, that society's name and office, are truly stated in the advertisement.
- (2) Every person who knowingly publishes any advertisement in contravention of the provisions of this section shall be guilty of an offence under this Part of this Act.

10 Prosecution of offences

Every person guilty of an offence under this Part of this Act shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding twenty-five pounds, and the court may order any child in respect of whom the offence was committed to be removed to a place of safety.

11 Exemptions

- (1) The foregoing provisions of this Part of this Act shall not extend to any relative or legal guardian of a child who undertakes the nursing and maintenance of the child, or to any person who undertakes the nursing or maintenance of a child under the provisions of any Act for the relief of the poor; or to any hospital, convalescent home, or institution—
- (a) which is maintained by a Government department, local authority, or any other authority or body constituted by special Act of Parliament or Royal Charter; or
 - (b) to which a certificate of exemption from the said provisions has been granted by the local authority; or
 - (c) of which particulars are required to be, and are, transmitted annually to the Secretary of State under the provisions of the Part of this Act relating to voluntary homes; or
 - (d) which is an institution or house certified by the General Board of Control for Scotland under the Mental Deficiency and Lunacy (Scotland) Act, 1913, and in which no children or young persons who are not mental defectives within the meaning of that Act are received;
- nor shall the said provisions apply in relation to any mental defective who is under guardianship in pursuance of an order under the Mental Deficiency and Lunacy (Scotland) Act, 1913.
- (2) For the purposes of this section, the expression " relatives " means grandparents, brothers, sisters, uncles, and aunts, by consanguinity or affinity, and in the case of illegitimate children the persons who would be so related if the child were legitimate.