



# Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37 1 Edw 8 and 1 Geo 6

## PART III

### EMPLOYMENT

#### *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>F1</sup>
- (2) . . . . . <sup>F2</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>F3</sup>Local Government (Scotland) Act 1973 (c. 65)] , by a local authority may be proved, and [<sup>F4</sup>section 204] of that Act shall apply accordingly.

#### Textual Amendments

- F1** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**
- F2** S. 35(2) repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**
- F3** 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
- F4** 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

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

### 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 [<sup>F5</sup>or 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 [<sup>F6</sup>a performance], [<sup>F7</sup>being trained, taking part in a sport, or working as a model,] and to make inquiries therein with respect to that person.
- [<sup>F8</sup>(2) Any authorised officer of the said authority or any constable may—
- (a) at any time enter any place used as a broadcasting studio . . . <sup>F9</sup>or film studio or used for the recording of a performance with a view to its use in a [<sup>F10</sup>programme service] or in a film intended for public exhibition and make inquiries therein as to any children taking part in performances to which [<sup>F11</sup>subsection (2) of] section 37 of the <sup>M1</sup>Children 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 [<sup>F12</sup>do 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 [<sup>F13</sup>level 2 on the standard scale].
- [<sup>F14</sup>(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]

#### Textual Amendments

- F5** Words inserted (prosp.) by [Employment of Children Act 1973 \(c. 24\), s. 3\(4\), Sch. 1 Pt. 1 para. 7](#)
- F6** Words substituted by [Children and Young Persons Act 1963 \(c. 37\), Sch. 3 para. 31](#)
- F7** Words in s. 36(1) substituted (4.8.1998) by S.I. 1998/276, [reg. 11\(a\)](#)
- F8** S. 36(2) substituted by [Children and Young Persons Act 1963 \(c. 37\), s. 43](#)
- F9** 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](#)
- F10** Words substituted by virtue of [Broadcasting Act 1990 \(c. 42, SIF 96\), s.203\(1\)\(3\), Sch. 20 para. 4\(1\)\(a\)](#)
- F11** Words in s. 36(2)(a) substituted (4.8.1998) by S.I. 1998/276, [reg. 11\(b\)](#)
- F12** Words in s. 36(2)(b) substituted (4.8.1998) by S.I. 1998/276, [reg. 11\(c\)](#)
- F13** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

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

**F14** 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)**

- C1** 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\(a\)](#)
- C2** 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**

**M1** 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>F15</sup>or regulations] made thereunder—

- [<sup>F16</sup>(a) The expression “child” means a person who is not for the purposes of the <sup>M2</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-blackening and other like occupations carried on in streets or public places;
- [<sup>F17</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) ..... <sup>F18</sup>

**Textual Amendments**

- F15** Words inserted (prosp.) by [Employment of Children Act 1973 \(c. 24\)](#), s. 3(4), [Sch. I Pt. I para. 8](#)
- F16** S. 37(a) inserted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 10(2), [Sch. 3 Pt. III para. 13](#)
- F17** 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](#))
- F18** S. 37(g) repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, [Sch. 5](#)

**Marginal Citations**

**M2** 1980 c.44 (41:2).

**38 Savings.**

(1) ..... <sup>F19</sup>

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- (3) [<sup>F20</sup>The provisions of this Part of this Act relating to employment] shall not apply to a person detained in [<sup>F21</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) ..... F22
- (7) ..... F19

**Textual Amendments**

- F19** Ss. 32, 34(3)(5), 38(1)(2)(7) repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**
- F20** Words substituted by Children and Young Persons Act 1963 (c. 37), **Sch. 3 para. 32**
- F21** Words substituted by Social Work (Scotland) Act 1968 (c. 49), **Sch. 8 para. 6**
- F22** S. 38(5)(6) repealed by Education (Scotland) Act 1945 (c. 37), **Sch. 6**

**Changes to legislation:**

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