



# Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37

## PART VII

MISCELLANEOUS AND GENERAL

### *General*

#### **109 Provisions as to documents, and c**

- (1) An order or other act of the Secretary of State under this Act may be signified under the hand of the Secretary of State or an Under-Secretary of State or an Assistant Under-Secretary, and an order or other act of the Scottish Education Department may be signified under the hand of the Secretary or of an Assistant Secretary of the Department.
- (2) A document purporting to be a copy—
  - (a) of an order made by a court under or by virtue of any of the provisions contained in sections sixty, sixty-one and sixty-six to ninety-four of this Act or in the Second Schedule to this Act; or
  - (b) of an order made after the commencement of this Act under section four of the Day Industrial Schools (Scotland) Act, 1893, sending a person to an approved school or committing him to the care of a fit person; or
  - (c) of a decree for aliment referred to in an order under section ninety-two of this Act,shall, if it purports to be certified as a true copy by the clerk of the court, be evidence of the order or decree.
- (3) The production of a copy of the Edinburgh Gazette containing a notice of the grant, or of the withdrawal or surrender, of a certificate of approval of an approved school shall be sufficient evidence of the fact of a certificate having been duly granted to the school named in the notice, or of the withdrawal or surrender of such a certificate, and

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the grant of a certificate of approval of an approved school may also be proved by the production of the certificate itself, or of a document purporting to be a copy of the certificate and to be authenticated as such by the Secretary or an Assistant Secretary of the Scottish Education Department.

- (4) Any notice or other document required or authorised by this Act to be served on the managers of an approved school may, if those managers are an education authority or a joint committee representing two or more education authorities, be served either personally or by post upon their clerk, and in any other case, may be served either personally or by post upon any one of the managers, or their secretary, or the headmaster of the school.
- (5) An order, licence, or other document may be authenticated on behalf of the managers of an approved school, if they are an education authority or a joint committee representing two or more education authorities, by the signature of their clerk or some other officer of the education authority duly authorised in that behalf, and in any other case, by the signature of one of the managers or their secretary, or of the headmaster.

## 110 Interpretation

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

" Approved school " means a school approved by the Scottish Education Department under section eighty-three of this Act;

" Approved school order " means an order made by a court sending a child or young person to an approved school;

" Borstal institution " means an institution established under Part I of the Prevention of Crime Act, 1908;

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

" Child " (except as provided in section thirty-seven of this Act) means a person under the age of fourteen years;

" Commit for trial " means commit until liberation in due course of law;

" 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 ;

" Headmaster " includes superintendent;

" In need of care or protection " has the meaning assigned to it by section sixty-five of this Act;

" Justice " (except in section fifty-one of this Act) includes the sheriff and any such magistrate as aforesaid;

" Large burgh " has the like meaning as in the Local Government (Scotland) Act, 1929;

" 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;

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" 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;

" Local authority " and " poor law authority " mean the council of a county or of a large burgh;

" Managers, " in relation to an approved school established or taken over by an education authority or by a joint committee representing two or more education authorities, means the education authority or the joint committee as the case may be, and in relation to any other approved school, means the persons for the time being having the management or control thereof;

" Passage " includes common close, or common stair, or common passage;

" Place of safety " means any remand home, poor house, or police station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive a child or young person;

" Police authority " means a county council or the council of a burgh maintaining a separate police force;

" Prescribed " means prescribed by regulations made by the Secretary of State or by the Scottish Education Department according as the matter to be dealt with is within the powers of the Secretary of State or of the Department;

" 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;

" Remand " means an order adjourning the proceedings or continuing the case and giving direction as to the detention in custody or liberation of a person during the period of adjournment or continuation and any reference to remanding a person or to remanding in custody shall be construed accordingly;

" Street " includes any highway and any public A.D. 1937. bridge, road, lane, footway, square, court, alley—or passage whether a thoroughfare or not;

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

- (2) For the purpose of any powers or duties which are by this Act conferred or imposed on county councils and on the councils of certain burghs only, all other burghs shall be included within the county.
- (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, and the juvenile court for any area 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) the juvenile court for any area being a county shall be deemed to be a court acting for the same place as the sheriff court or the justice of the peace court for that county;

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and save as aforesaid no court shall be deemed to be a court acting for the same place as any other court.

- (b) In this subsection the expression " county" includes a county of a city, and a burgh being a county of a city shall be deemed to be a burgh situated in the county of the city, and the sheriff court for any county means the sheriff court of the sheriffdom comprising the county.
- (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.

## **111 Transitory provisions**

- (1) Without prejudice to the provisions of the Interpretation Act, 1889, with respect to repeals, the transitory provisions set out in the Third Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the provisions of the enactments repealed by this Act.
- (2) References in any Act to places of detention provided under section one hundred and eight of the Children Act, 1908, shall be construed as references to remand homes provided under this Act.
- (3) References in any Act or other document to reformatory schools or industrial schools and to youthful offenders and children sent thereto or detained therein shall be construed as including references to approved schools and to children and young persons sent thereto or detained therein, and references in any Act or other document to orders committing a child or young person to the care of a fit person under any of the provisions of the Children Act, 1908, shall be construed as including references to orders of the like nature made under this Act.
- (4) References in any Act or other document to juvenile courts under the Children Act, 1908, shall be construed as including references to such courts under this Act.
- (5) References in any Act or other document to any enactment repealed and re-enacted with or without modifications by this Act shall be construed as including references to the corresponding provision of this Act.
- (6) The reference in the First Schedule to this Act to any offence under sections twelve, thirteen, fourteen, twenty-two or thirty-three of this Act shall be construed as including a reference to any offence under the Dangerous Performances Acts, 1879 and 1897, or under Part II of the Children Act, 1908.

## **112 Saving of provisions in Aberdeen local Act**

Subject to the provisions herein-after contained, nothing in this Act shall be construed to repeal, alter, prejudice, or affect any of the provisions of the Aberdeen Reformatories and Industrial Schools Act, 1885, and the directors acting under that Act shall continue to have the full rights, privileges, and powers competent to them immediately prior to the commencement of this Act: Provided, nevertheless, that the Secretary of State may, by order under his hand, provide for altering, amending, or

adapting that Act so as to provide (a) for the re-constitution of the board of directors, for the election of new directors, for subsequent elections of directors, for the annual retiral of one-third or other proportion of the directors, and for supplying vacancies arising from time to time; and (6) for otherwise altering, amending or adapting the provisions of the said Act, as may seem to him necessary to make those provisions conform with the provisions of this Act, or to enable the powers under the said Act to be exercised-as if they were powers under this Act. Any such order may be revoked and varied by a subsequent order.

### **113 Short title, commencement, extent and repeals**

- (1) This Act may be cited as the Children and Young Persons (Scotland) Act, 1937.
- (2) This Act, except section twenty-nine thereof, shall come into operation on the first day of July nineteen hundred and thirty-seven.
- (3) Save as therein otherwise expressly provided, this Act shall extend only to Scotland.
- (4) The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.