

SCHEDULES

FIRST SCHEDULE

Sections 24, 25, 26, 47, 48, 65, 67, 71,
103, 111.

OFFENCES AGAINST CHILDREN AND YOUNG PERSONS, WITH RESPECT TO WHICH SPECIAL PROVISIONS OF THIS ACT APPLY

- (a) Any offence under the Criminal Law Amendment Act, 1885.
- (b) Any offence in respect of a child or young person which constitutes the crime of incest.
- (c) Any offence under sections twelve, thirteen, fourteen, fifteen, twenty-two or thirty-three of this Act.
- (d) Any other offence involving bodily injury to a child or young person.

SECOND SCHEDULE

Sections 85, 109.

PROVISIONS AS TO ADMINISTRATION OF APPROVED SCHOOLS AND TREATMENT OF PERSONS SENT THERETO

General Provisions

- 1 (1) The Scottish Education Department may make rules for the management and discipline of approved schools, and different rules may be made as respects different schools or classes of school.
- (2) The managers of an approved school may make supplementary rules for the management and discipline of the school, but rules so made shall not have effect unless approved by the Scottish Education Department.
- 2 No substantial addition to, or diminution or alteration of, the buildings or grounds of an approved school shall be made without the approval in writing of the Scottish Education Department.

Treatment of Pupils

- 3 A minister of the religious persuasion to which a person in an approved school belongs may visit him at the school on such days, at such times, and on such conditions, as may be fixed by rules made by the Scottish Education Department, for the purpose of affording him religious assistance and instruction.
- 4 If it appears to the managers of an approved school that a person who has been ordered to be sent to their school requires medical attention before he can properly be received into the school, or that a person detained in the school requires such attention, they may make arrangements for him to be received into and detained in any hospital, home or other institution where he can receive the necessary attention; and that person, while so detained, shall for the purposes of this Act be deemed to be under the care of the managers of the school, and shall, for the purposes of

section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913, be deemed to be detained in the school.

Power to Place out Pupils

5 At any time during the period of a person's detention in an approved school the managers of the school may grant leave to him to be absent therefrom in the charge of such person and for such period as they think fit, but during such leave he shall, for the purposes of this Act, be deemed to be under the care of the managers of the school, and the managers may at any time require him to return to the school.

6 (1) At any time during the period of a person's detention in an approved school the managers of the school may and, if the Scottish Education Department so direct, shall by licence in writing permit him to live with his parent, or with any trustworthy and respectable person (to be named in the licence) who is willing to receive and take charge of him :

Provided that, without the consent of the Scottish Education Department, a licence shall not be granted during the first twelve months of the period of a person's detention.

(2) The Scottish Education Department shall through their inspectors review the progress made by persons detained in approved schools with a view to ensuring that they shall be placed but on licence as soon as they are fit to be so placed out.

(3) The managers of the school may at any time by order in writing revoke any licence, and require the person to whom it relates to return to the school.

(4) For the purposes of this Act, a person who is out on licence from an approved school shall be deemed to be under the care of the managers of the school.

7 If a person under the care of the managers of an approved school conducts himself well, the managers of the school may, with his written consent, apprentice or place him in any trade, calling, or service, including service in the Navy, Army or Air Force, or may, with his written consent and with the written consent of the Scottish Education Department, arrange for his emigration.

Before exercising their powers under this paragraph, the managers shall, in any case where it is practicable so to do, consult with the parents of the person concerned.

Misconduct of Pupils

8 If a person detained in an approved school is guilty of serious misconduct, the managers, if authorised by the Scottish Education Department so to do, may bring him before a court of summary jurisdiction and that court may (notwithstanding any limitations contained in this Act upon the period during which he may be detained in an approved school) order him—

(a) if he is under the age of sixteen years, to have the period of his detention in the school increased by such period not exceeding six months as the court may direct; or

(b) if he has attained the age of sixteen years but is under the age of seventeen years, to have the period of his detention so increased, or to be sent to a Borstal institution for a period of two years; or

- (c) if he has attained the age of seventeen years, to have the period of his detention so increased, or to be sent to a Borstal institution for two years, or to be imprisoned for three months.

Discharge and Transfer

- 9 (1) The Scottish Education Department may at any time order a person under the care of the managers of an approved school to be discharged, or to be transferred to the care of the managers of another school, or, with the consent of the Secretary of State, to the care of the managers of a school in England which is an approved school within the meaning of the Children and Young Persons Act, 1933.
- (2) Upon a person being so discharged or transferred as aforesaid, the Scottish Education Department shall cause notice to be sent to the education authority liable to make contributions in respect of him.
- (3) Where a person is transferred under the foregoing provisions of this paragraph to the care of the managers of a school in England, the provisions of this Act relating to contributions by parents, guardians and others, and education authorities, shall apply in respect of him as if the school in England were an approved school within the meaning of this Act, and if under the law in force in England he is retransferred to the care of the managers of a school in Scotland which is an approved school within the meaning of this Act, this Act shall have effect in relation to the retransfer as if it were a transfer under this paragraph from the care of the managers of one approved school in Scotland to the care of the managers of another approved school in Scotland.
- 10 The provisions of section seventy-two of this Act (which relate to religious persuasion) shall apply in relation to the transfer of persons to approved schools and orders made for that purpose as they apply in relation to the sending of persons to such schools and orders made for that purpose.
- 11 Where a person detained in an approved school is transferred to the care of the managers of another school, he shall be conveyed to his new school by and at the expense of the managers of the first-mentioned school.

Powers and duties of Managers and other Persons in Charge of Pupils

- 12 (1) Subject as hereinafter provided, all rights and powers exercisable by law by a parent shall as respects any person under the care of the managers of an approved school be vested in them:
- Provided that, where a person out on licence or under supervision from an approved school is lawfully living with his parents or either of them, the said rights and powers shall be exercisable by the parents or, as the case may be, by the parent with whom he is living; but it shall be the duty of any such parent so to exercise those rights and powers as to assist the managers to exercise control over him.
- (2) The managers of an approved school shall be under an obligation to provide for the clothing, maintenance and education of the persons under their care, except that while such a person is out on licence, or under supervision, their obligation shall be to cause him to be visited, advised and befriended and to give him assistance (including, if they think fit, financial assistance) in maintaining himself and finding suitable employment.
- 13 Every person who—

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- (a) is authorised by the managers of an approved school to take charge of a person under their care, or to apprehend such a person and bring him back to the school; or
- (b) is authorised by an education or poor law authority or, being a probation officer, is authorised by a court, to take to an approved school a person ordered to be detained therein,

shall, for the purposes of his duty as aforesaid, have all the powers, protection, and privileges of a constable.

Superannuation of Officers

14 The managers of any approved school may, as part of the expenses of the management of the school, pay, or contribute towards the payment of—

- (a) a superannuation allowance or gratuity—
 - (i) to any officer who retires by reason of old age or permanent infirmity of mind or body;
 - (ii) to any officer, who, in accordance with the terms of his appointment, is required to vacate his office by reason of the death, or the retirement on account of old age or permanent infirmity, of another officer;
- (b) a gratuity to any dependant of an officer who has died in the service of the school:

Provided that no payment or contribution in respect of any such superannuation allowance or gratuity shall be made unless it is made in accordance with rules approved by the Scottish Education Department with the concurrence of the Treasury for regulating the grant of such allowances and gratuities, or unless it is specially sanctioned by the Scottish Education Department.

THIRD SCHEDULE

Section 111.

TRANSITORY PROVISIONS

1 Any order, rule, or regulation made, any certificate given, and anything done, under any enactment repealed by this Act shall, for the purposes of this Act, be deemed to have been made, given or done under the corresponding provisions of this Act.

2 Any rule, byelaw, warrant or licence under any enactment repealed either by the Children and Young Persons (Scotland) Act, 1932 (hereinafter referred to as the Act of 1932) or by this Act and re-enacted, with or without modifications, by this Act shall have the like effect, and the like proceedings may be had thereon and in respect thereof, as if it had been made, made and confirmed, or granted, under this Act:

Provided that this paragraph shall not apply to rules made under section fifty-four of the Children Act, 1908 (hereinafter referred to as the Act of 1908), for the management and discipline of a certified school or to byelaws made under the Employment of Children Act, 1903.

3 Where before the commencement of the Act of 1932 an order has been made under the Act of 1908, committing a child or young person to the care of a relative or other fit person, this Act shall have effect in relation to the child or young person as if the order were an order made under this Act:

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Provided that, notwithstanding anything in this Act, the order shall not have effect for any longer period than the period for which it would have had effect if neither this Act nor the Act of 1932 had passed.

4 This Act shall apply in relation to a school which, at the first day of November, nineteen hundred and thirty-three, was a certified reformatory school or a certified industrial school as if the certificate for the school were a certificate of approval issued under this Act.

5 The Scottish Education Department may, if they think fit, approve for the purposes of this Act any school which on the twelfth day of July, nineteen hundred and thirty-two, was a certified day industrial school, and if they so approve any such school, the provisions of this Act shall apply in relation to that school and to children previously sent, or thereafter to be sent thereto, subject to such adaptations, modifications and exceptions as they may from time to time by order direct.

6 Subject to the provisions of this Schedule, this Act shall apply in relation to persons who at or after the first day of November, nineteen hundred and thirty-three, were or are lawfully detained in, or out on licence or under supervision from, or are absentees from, a certified school, as if they were persons detained in, or out on licence or under supervision from, or absentees from, an approved school under the provisions of this Act:

Provided that the periods for which such persons are liable to be detained in approved schools and to remain under the supervision of the managers shall (except so far as increased by virtue of the provisions of this Act relating to persons guilty of misconduct in schools or of escaping, running away or refusing to return when recalled) be such as if neither this Act nor the Act of 1932 had passed.

7 Where a child or young person has, before the first day of November, nineteen hundred and thirty-three, been ordered to be sent to a certified school, it shall be the duty of the council or authority, if any, who under the Act of 1908 were liable to provide for his reception and maintenance in the school to make such contributions in respect of him as would by this Act be required to be made if he had been sent to the school under an approved school order and they were the education authority named in that order as being the authority within whose area he was resident: and if in any such case as aforesaid—

- (a) it had not been determined at the commencement of the Act of 1932 who are the council or authority who are responsible as aforesaid; or
- (b) proceedings might but for the passing of this Act and the Act of 1932 have been had for varying a determination as to that question,

the like proceedings may be had for determining the question and for varying any determination in respect thereof as might have been had if neither this Act nor the Act of 1932 had passed.

8 Where a child or young person has before the first day of November, nineteen hundred and thirty-three, been ordered to be sent to a certified school at the instance of a county, town or parish council, the county or town council concerned shall be under the like obligation to make contributions to the expenses of the managers of the school as they would be under if he had been sent to the school by virtue of an approved school order made on their application in their capacity as a poor law authority.

9 Where before the first day of November, nineteen hundred and thirty-three, a child or young person was committed to the care of a relative or other fit person or was

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- ordered to be sent to a certified school and an order was in force at that date requiring any person liable to maintain him to contribute to his maintenance, or requiring the whole or any part of any payment under a decree for aliment to be paid to a person named in the order, this Act shall apply in relation to the order as if it had been made under this Act, and where the order provides for the making of payments to the Scottish Education Department, it shall, by virtue of this Act and without more, be deemed to provide that the payments shall be made to the education authority within whose area the person liable to make the payments is from time to time resident.
- 10 Where in pursuance of section fifty-three of the Act of 1908 a child has been boarded out by the managers of a certified school, this Act shall apply in relation to that child—
- (a) if the managers are a county or town council or an education authority, as if he had been committed under this Act to their care and had been boarded out by them under this Act;
 - (b) if the managers are not a county or town council or an education authority, as if he were out on licence from the school.
- 11 Where before the first day of November, nineteen hundred and thirty-three, a child or young person entered into a bond under the proviso to subsection (4) of section fifty-eight of the Act of 1908 or under section sixty of that Act, the provisions of section seventy of this Act shall apply as if such an order as is mentioned in that section had been made placing him under the supervision of a probation officer, and the bond shall cease to have effect.
- 12 The repeal by the Act of 1932 of the provisions of the Act of 1908 relating to places of detention shall not render illegal the custody of a child or young person in such a place unless and until a remand home for the area in question has been provided in substitution therefor, and when such a home has been provided, the children or young persons in custody in the place of detention shall be transferred to and kept in custody in the home.

FOURTH SCHEDULE

Section 113.

ENACTMENTS REPEALED

Session and Chapter.	Short Title.	Extent of Repeal.
8 Edw. 7. c. 67	The Children Act, 1908.	The whole Act so far as unrepealed, except section one hundred and twenty-two, section one hundred and thirty-two (so far as necessary for the application to Scotland of the first mentioned section), and subsection (1) of section one hundred and thirty-four.
10 Edw. 7. & 1 Geo. 5. c. 25.	The Children Act (1908) Amendment Act, 1910.	The whole Act.

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Session and Chapter.	Short Title.	Extent of Repeal.
22 & 23 Geo. 5. c. 47.	The Children and Young Persons (Scotland) Act, 1932.	The whole Act except sections nine and seventy-three, subsection (1) of section eighty-three from the beginning to the words "Act, 1932," and subsection (3) of section eighty-three.
26 Geo. 5. & 1 Edw. 8. c. 42.	The Education (Scotland) Act, 1936.	Section five.