



Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37 1 Edw 8 and 1 Geo 6

PART III

EMPLOYMENT

General Provisions as to Employment

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 [^{F1}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 [^{F2}level 3 on the standard scale]or, in the case of a second or subsequent offence, not exceeding [^{F2}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—

Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937, Section 31. (See end of Document for details)

- (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.

[^{F3}(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.]

- (3) A [^{F4}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 [^{F2}level 1 on the standard scale], or in the case of a second or subsequent offence, not exceeding [^{F2}level 1 on the standard scale].

Textual Amendments

- F1** Words inserted (prosp.) by [Employment of Children Act 1973 \(c. 24\)](#), s. 3(4), **Sch. 1 Pt. I para. 6(a)**
- F2** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**
- F3** [S. 31\(2A\)](#) inserted (4.8.1998) by [S.I. 1998/276](#), **reg. 9**
- F4** 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)

- C1** [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)**
- C2** [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)**

Changes to legislation:

There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937, Section 31.