



# Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

## PART VI **E+W**

### SUPPLEMENTAL

#### *Local Authorities*

#### 96 Provisions as to local authorities. **E+W**

[<sup>F1</sup>(1) In Part 2 of this Act “local authority” has the same meaning as in the Education Act 1996 (see section 579(1) of that Act).]

[<sup>F2</sup>(1A) The local authorities for the purposes of Parts III and IV of this Act shall be the council of counties (other than metropolitan counties), of metropolitan districts and of London boroughs and the Common Council of the City of London [<sup>F3</sup>but, in relation to Wales, shall be the councils of counties and county boroughs].]

<sup>F4</sup>(2) .....

<sup>F5</sup>(3) .....

<sup>F6</sup>(4) .....

<sup>F7</sup>(4A) .....

<sup>F8</sup>(5) .....

<sup>F9</sup>(6) .....

(7) <sup>F10</sup> . . . a local authority may refer to a committee appointed for the purposes of this Act, or to any committee appointed for the purposes of any other Act, any matter relating to the exercise by the authority of any of their powers under this act and may delegate any of the said powers (other than any power to borrow money) to any such committee.

(8) A local authority, or a committee to whom any powers of a local authority under this Act have been delegated, may by resolution empower the clerk or the chief education officer of the authority to exercise in the name of the authority in any case which

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appears to him to be one of urgency any powers of the authority or, as the case may be, of the committee with respect to the institution of proceedings under this Act.

#### Textual Amendments

- F1** S. 96(1) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 17(2)(a)**
- F2** S. 96(1A) inserted (1.4.1981) by [Child Care Act 1980 \(c. 5\)](#), **Sch. 5 para. 1**
- F3** Words at the end of s. 96(1A) added (1.4.1996) by [1994 c. 19](#), s. 22(4), **Sch. 10 para. 1(2)** (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396](#), art. 3, **Sch.1**
- F4** S. 96(2) repealed by [Education Act 1944 \(c. 31\)](#), **Sch. 9**
- F5** S. 96(3) repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 17(2)(b), **Sch. 3 Pt. 2**
- F6** S. 96(4) repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 17(2)(b), **Sch. 3 Pt. 2**
- F7** S. 96(4A) repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 17(2)(b), **Sch. 3 Pt. 2**
- F8** S. 96(5) repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34(3), **Sch. 6 Pt. II**
- F9** S. 96(6) repealed by [London Government Act 1963 \(c. 33\)](#), s. 93, Sch. 18 Pt. II
- F10** Words in s. 96(7) repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, **Sch. 5 Pt. 4**; [S.I. 2005/394](#), **art. 2(2)(g)**; [S.I. 2006/885](#), **art. 2(2)(h)**

#### Modifications etc. (not altering text)

- C1** Reference to expenses for general county purposes to be construed as reference to general expenses of a county council, and references to clerk of a local authority to be construed as reference to proper officer of a local authority: [Local Government Act 1972 \(c. 70\)](#), Sch. 29 Pt I paras. 3(a), **4(1)(a)**
- C2** S. 96(1) amended by [Children and Young Persons Act 1963 \(c. 37\)](#), **s. 56(1)**
- C3** S. 96(4) excluded by [London Government Act 1963 \(c. 33\)](#), **s. 47(2)**

#### <sup>F11</sup>97 **Modifications of last foregoing section as to City of London.** E+W

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#### Textual Amendments

- F11** S. 97 repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 17(3), **Sch. 3 Pt. 2**

#### <sup>F12</sup>98 **†Institution of proceedings by local or poor law authorities.** E+W

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#### Textual Amendments

- F12** S. 98 repealed (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 17(3), **Sch. 3 Pt. 2**

#### Modifications etc. (not altering text)

- C4** Unreliable marginal note.

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### *Supplementary Provisions as to Legal Proceedings*

#### **99 Presumption and determination of age. E+W**

- (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due inquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it has attained [<sup>F13</sup>the age of eighteen] years, that person shall for the purposes of this Act be deemed not to be a child or young person.
- (2) Where in any charge or indictment for any offence under this Act or any of the offences mentioned in the First Schedule to this Act [<sup>F14</sup>except as provided in that Schedule], it is alleged that the person by or in respect of whom the offence was committed was a child or young person or was under or had attained any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or young person, or to have been under or to have attained the specified age, as the case may be, he shall for the purposes of this Act be presumed at that date to have been a child or young person or to have been under or to have attained that age, as the case may be, unless the contrary is proved.
- (3) Where, in any charge or indictment for any offence under this Act or any of the offences mentioned in the First Schedule to this Act, it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.
- (4) Where a person is charged with an offence under this Act in respect of a person apparently under a specified age it shall be a defence to prove that the person was actually of or over that age.

#### **Textual Amendments**

- F13** Words in s. 99(1) substituted (1.10.1992) by Criminal Justice Act 1991, (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 1(2), Sch. 12 para. 22(1); S.I. 1992/333, art. 2(2), **Sch.2**
- F14** Words substituted by Sexual Offences Act 1956 (c. 69), **Sch. 3**

#### **Modifications etc. (not altering text)**

- C5** S. 99 extended by Children and Young Persons Act 1969 (c. 54), s. 70(3)
- C6** S. 99 extended by Mental Health Act 1983 (c. 20, SIF 85), ss. 55(7), 131(1)

#### **100 Evidence of wages of defendant. E+W**

In any proceedings under this Act a copy of an entry in the wages book of any employer of labour, or if no wages book be kept a written statement signed by the employer

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or by any responsible person in his employ, shall be evidence that the wages therein entered or stated as having been paid to any person, have in fact been so paid.

## 101 Application of Summary Jurisdiction Acts. **E+W**

F15 .....

### Textual Amendments

**F15** S. 101 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 76, **Sch. 10**; S.I. 2005/910, **art. 3(bb)**

## 102 †Appeals to quarter sessions. **E+W**

- (1) Appeals to [<sup>F16</sup>the Crown Court] from orders of a [<sup>F17</sup>magistrates' court] under this Act may be brought in the following cases and by the following persons, that is to say—
- (a) ..... <sup>F18</sup>
  - (c) ..... <sup>F19</sup>
  - (e) in the case of an order requiring the owner of an automatic machine for the sale of tobacco or the person on whose premises such a machine is kept, to take precautions to prevent the machine being extensively used by persons apparently under the age of [<sup>F20</sup>eighteen] years or to remove the machine, by any person aggrieved;
  - [<sup>F21</sup>(f) in the case of a restricted premises order under section 12A or a restricted sale order under section 12B, by any person aggrieved.]
  - (f) ..... <sup>F22</sup>
- (2) Nothing in this section shall be construed as affecting the . . . <sup>F23</sup> any other right of appeal conferred by this or any other Act.

### Textual Amendments

- F16** Words substituted by Courts Act 1971 (c. 23), s. 56(2), **Sch. 9 Pt. I**
- F17** Words in s. 102(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 77**; S.I. 2005/910, **art. 3(y)**
- F18** S. 102(1)(a)(b) repealed by Children and Young Persons Act 1969 (c. 54), s. 72, **Sch. 6**
- F19** S. 102(1)(c)(d) repealed (1.4.1981) by Child Care Act 1980 (c. 5), s. 89, **Sch. 6**
- F20** Word in s. 102(1)(e) substituted (1.10.2007) by The Children and Young Persons (Sale of Tobacco etc.) Order 2007 (S.I. 2007/767), **art. 2(b)** (with effect as mentioned in art. 1)
- F21** S. 102(1)(f) inserted (1.4.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 143(3), 153**; S.I. 2009/860, **art. 2(1)(c)**
- F22** S. 102(1)(f) and words repealed by Children Act 1948 (c. 43), **Sch. 4 Pt. II**
- F23** Words repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**

### Modifications etc. (not altering text)

**C7** Unreliable marginal note.

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### Supplementary Provisions as to Secretary of State

#### <sup>F24</sup> **103 Power of Secretary of State to appoint inspectors.** **E+W**

The Secretary of State may appoint for the purposes of the enactments relating to children and young persons a chief inspector, and such number of inspectors to act under the direction of the chief inspector as the Treasury may approve, and may pay to the persons so appointed such remuneration and allowances as with the consent of the Treasury he may determine, and they shall perform such duties as the Secretary of State may from time to time direct.

#### Textual Amendments

**F24** S. 103 repealed (prosp.) by Children and Young Persons Act 1969 (c. 54), ss. 72, 73(2), Sch. 6

#### <sup>F25</sup> **104 Exchequer grants and expenses of Secretary of State.** **E+W**

- (1) There shall be paid out of money provided by Parliament—
  - (a) such sums on such conditions as the Secretary of State with the approval of the Treasury may recommend towards—
    - (i) the expenses of the managers of an approved school;
    - (ii) ..... <sup>F26</sup>
    - (iii) the expenses of a council of a county or county borough in respect of remand homes;
  - (b) ..... <sup>F27</sup>
  - (c) any expenses incurred by the Secretary of State in the administration of this Act.
- (2) The conditions on which any sums are paid under this section towards the expenses incurred in connection with the provision of a site for, or with the erection, enlargement, improvement or repair of, an approved school, may include conditions for securing the repayment in whole or in part of the sums paid in the event of the school ceasing to be an approved school, and, notwithstanding anything in the constitution of the school or of the managers thereof, or in the trusts, if any, to which the property of the school or of the managers is subject, the managers and any persons who are trustees of any of the said property may accept those sums on those conditions, and execute any instrument required for carrying into effect those conditions, and shall be bound by those conditions and by any instrument so executed and have power to fulfil the conditions and the obligations created by the instrument.

#### Textual Amendments

**F25** S. 104 repealed (prosp.) by Children and Young Persons Act 1969 (c. 54), ss. 72, 73(2), Sch. 6; amended by Criminal Justice Act 1948 (c. 58), s. 49(6) and Children and Young Persons Act 1963 (c. 37), s. 11(3)

**F26** S. 104(1)(a)(ii) repealed by Children Act 1948 (c. 43), Sch. 4 Pt. I

**F27** S. 104(1)(b) repealed by Local Government Act 1958 (c. 55), Sch. 9 Pt. II

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### General

#### 105 Variation of Orders in Council. **E+W**

An Order in Council under this Act may be revoked or varied by any subsequent Order in Council.

#### 106 Provisions as to documents, &c. **E+W**

- (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 <sup>F28</sup> . . . .
- <sup>F29</sup>(2) . . . . .
- (3) The production of a copy of the London 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 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 an Under-Secretary of State or Assistant Under-Secretary.
- (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 a local authority or a joint committee representing two or more local 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 a local authority or a joint committee representing two or more local authorities, by the signature of their clerk or some other officer of the local 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.

#### Textual Amendments

**F28** Words in s. 106(1) repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F29** S. 106(2) repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

#### Modifications etc. (not altering text)

**C8** S. 106 extended by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 11(2)(4)

**C9** Power to apply s. 106(3) conferred by [Criminal Justice Act 1948 \(c. 58\)](#), s. 49(2)

#### 107 Interpretation. **E+W**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—
  - [<sup>F30</sup> “Approved school” means a school approved by the Secretary of State under section seventy-nine of this Act;]

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[<sup>F30</sup> “Approved school order” means an order made by a court sending a  
<sup>F31</sup> . . . person to an approved school;]

<sup>F32</sup> . . . . .

“Chief officer of police” <sup>F33</sup> . . . as regards Scotland [<sup>F34</sup> means the chief constable of the Police Service of Scotland], and as regards Northern Ireland means a district inspector of the Royal Ulster Constabulary;

“Child” means a person under the age of fourteen years;

<sup>F35</sup> . . . . .

“Guardian”, in relation to a child or young person, includes any person who, in the opinion of the court having cognisance 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 [<sup>F36</sup> care of] the child or young person;

<sup>F37</sup> . . . . .

<sup>F38</sup> . . . . .

[<sup>F39</sup> “Legal guardian”, in relation to a child or young person, means a guardian of a child as defined in the Children Act 1989]

[<sup>F40</sup> “legal representative” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);]

<sup>F41</sup> . . . . .

<sup>F42</sup> . . . . .

“Place of safety” means [<sup>F43</sup> a community home provided by a local authority or a controlled community home, any] 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;

<sup>F44</sup> . . . . .

“Prescribed” means prescribed by regulations made by the Secretary of State;

“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;

<sup>F45</sup> . . . . .

“Street” includes any highway and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

[<sup>F46</sup> “young person” means a person who has attained the age of fourteen and is under the age of eighteen years.]

(2) <sup>F47</sup> . . . . .

(3) 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.

#### Textual Amendments

**F30** Definitions repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 73(2), [Sch. 6](#)

**F31** Words repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, [Sch. 5](#)

**F32** Definitions in s. 107(1) repealed (E.W.) (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6) (7), [Sch. 15](#) (with Sch. 14 para. 27(4)); S.I. 1991/828, [art. 3\(2\)](#).

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- F33** Words in s. 107(1), in the definition of "Chief officer of police" repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**
- F34** Words in s. 107(1) substituted (S.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 4**
- F35** Definition repealed (1.4.1981) by Child Care Act 1980 (c. 5), s. 89, **Sch. 6**
- F36** Words in s. 107(1) substituted (E.W.) (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), **Sch. 13 para. 7(a)**, ( with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**.
- F37** Definition repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**
- F38** S. 107: definition of "intoxicating liquor" repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 199, 201, **Sch. 6 para. 15, Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**
- F39** Definition in s. 107(1) substituted (E.W.) (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), **Sch. 13 para. 7(b)** ( with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**.
- F40** S. 107: definition of "legal representative" inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, **Sch. 21 para. 20** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F41** Definitions repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6** and spent
- F42** Definition repealed by Statute Law (Repeals) Act 1986 (c.12), s. 1(1), **Sch. 1 Pt. XIII**
- F43** Words substituted by Children and Young Persons Act 1969 (c. 54), **Sch. 5 para. 12(2)**
- F44** Definitions repealed by National Assistance Act 1948 (c. 29), s. 62, **Sch. 7 Pt. III** and Police Act 1964 (c. 48), s. 64, **Sch. 10 Pt. I**
- F45** Definition repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**
- F46** Definition in s. 107(1) substituted (E.W.) (1.10.1992 except to the extent that it would otherwise apply to s. 34 of this Act as mentioned in art. 2(4) of S.I. 1992/333) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), **Sch. 8 para. 1(3), Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2)(4), **Sch. 2**.
- F47** S. 107(2) repealed by Children and Young Persons Act 1969 (c. 54), s. 72, **Sch. 6**

**Modifications etc. (not altering text)**

- C10** Definition of "Chief officer of police" amended by S. R. & O. (N.I.) 1970 No. 111, **reg. 6(b)**

**108 Transitory provisions. E+W**

- (1) Without prejudice to the provisions of [<sup>F48</sup>the <sup>M1</sup>Interpretation Act 1978] with respect to repeals, the transitory provisions set out in the Fifth 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 the <sup>M2</sup>Children and Young Persons Act 1932, and by this Act.
- (2) ..... <sup>F49</sup>
- (3) ..... <sup>F49</sup>
- (4) References in any Act or other document to [<sup>F50</sup>youth courts] under the <sup>M3</sup>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 <sup>F51</sup>. . . shall be construed as including references to the corresponding provision of this Act.
- <sup>F52</sup>(6) .....

**Textual Amendments**

- F48** Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**



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- F49** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by Children and Young Persons Act 1969 (c. 54), s. 72, **Sch. 6**
- F50** Words in s. 108(4) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F51** Words in s. 108(5) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VIII**.
- F52** S. 108(6) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VIII**.

#### Marginal Citations

- M1** 1978 c. 30.  
**M2** 1932 c. 46.  
**M3** 1908 c. 67.

### 109 †Short title, commencement, extent, and repeals. **E+W**

- (1) This Act may be cited as the Children and Young Persons Act 1933.
- (2) ..... **F53**
- (3) Save as therein otherwise expressly provided, this Act shall not extend to Scotland or Northern Ireland.
- (4) ..... **F53**

#### Textual Amendments

- F53** S. 109(2)(4) and Sch. 6 repealed by Statute Law Revision Act 1950 (c. 6)

#### Modifications etc. (not altering text)

- C11** Unreliable marginal note.

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