Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

PART II

EMPLOYMENT

General Provisions as to Employment

21 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 regulation**]** 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 summary conviction to a fine not exceeding **[**[F2]twenty pounds**]**[[F3]£50**]** or, in the case of a second or subsequent offence, not exceeding **[**[F2]fifty pounds**]**[[F4]£100**]**:

Provided that, if proceedings are brought against the employer, the employer, upon information duly laid by him and on giving to the prosecution 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,

(a) the prosecution 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

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(b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

[[F5](2A) Where a person is charged under this section with contravening section 18(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 18(1)(j) should be compiled with**]**

(3) A **[**[F6]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 summary conviction to a fine not exceeding **[**[F7]ten pounds**]**, or in the case of a second or subsequent offence, not exceeding **[**[F7]twenty pounds**]**.

Textual Amendments

F1 Words inserted (prosp.) by Employment of Children Act 1973 (c. 24), s. 3(4), **Sch. 1 Pt. I para. 2(a)**

F2 Words substituted by Children and Young Persons Act 1963 (c. 37), **s. 36(a)** in relation to offences committed after 3.3.1969

F3 Words "£50" substituted (prosp.) for words "twenty pounds" by Employment of Children Act 1973 (c. 24), s. 3(4), **Sch. 1 Pt. I para. 2(b)**

F4 Words "£100" substituted (prosp.) for words "fifty pounds" by Employment of Children Act 1973 (c. 24), s. 3(4), **Sch. 1 Pt. I para. 2(b)**

F5 S. 21(2A) inserted (4.8.1998) by S.I. 1998/276, **reg. 3**.

F6 Word substituted by Employment Act 1989 (c. 38, SIF 43:1), s. 10(2), **Sch. 3 Pt. III para. 3**

F7 Words substituted by Children and Young Persons Act 1963 (c. 37, s. 36(b) in relation to offences committed after 3.3.1969

Modifications etc. (not altering text)

C1 Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

C2 S. 21(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)**

C3 S. 21(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)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12D(1A)-(1F) inserted by 2017 anaw 2 s. 51
- s. 39(2A) inserted by 2010 c. 26 Sch. 3 para. 3 (This amendment not applied to legislation.gov.uk. Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by 2013 c. 22, s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 49(12)-(14) inserted by 1999 c. 23 Sch. 2 para. 3(9)