



Children Act 1975

1975 CHAPTER 72

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

^{F1}100

Textual Amendments

F1 S. 100 repealed (1.4.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(8), **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**

101 Appeals etc.

[^{F2}(1) Where any application has been made under this Act [^{F3}or the relevant adoption provisions] to a county court, the High Court may, at the instance of any party to the application, order the application to be removed to the High Court and there proceeded with on such terms as to costs as it thinks proper.]

(2) Subject to subsection (3), where on an application to a magistrates' court under this Act [^{F4}or the relevant adoption provisions] the court makes or refuses to make an order, an appeal shall lie to the High Court.

(3) Where an application is made to a magistrates' court under this Act [^{F4}or the relevant adoption provisions], and the court considers that the matter is one which would more conveniently be dealt with by the High Court, the magistrates' court shall refuse to make an order, and in that case no appeal shall lie to the High Court.

[^{F5}(4) Any order made on an appeal under subsection (2) from a decision of a magistrates' court on an application under Part II (other than an order directing that

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an application shall be re-heard by a magistrates’ court) shall for the purposes of the enforcement of the order and for the purposes of sections 35, 35A and 36 be treated as if it were an order of the magistrates’ court from which the appeal was brought and not of the High Court.]

[^{F6}(5) In this section “the relevant adoption provisions” means sections 34, 34A and 35(2) of the ^{M1}Adoption Act 1958.]

Textual Amendments

F2 S. 101(1) repealed (E.W.) by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 46(3), 47, **Sch. 3**

F3 Words inserted (E.W.) by virtue of Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22, SIF 49:3) Schs. 1, 2 para. 49 and Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, **Sch. 2 para. 27(a)(i)**

F4 Words inserted (E.W.) by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, **Sch. 2 para. 27(a)(ii)**

F5 S. 101(4) added (E.W.) by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22, SIF 49:3), s. 71, **Sch. 1**

F6 S. 101(5) added by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, **Sch. 2 para. 27(b)**

Marginal Citations

M1 1958 c. 5(49:11).

^{F7}**102**

Textual Amendments

F7 S. 102 repealed (1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(8), **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**

^{F8}**103**

Textual Amendments

F8 S. 103 repealed (22.1.2002) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(8), **Sch. 5** (with s. 103(1)) (which repeal was to come into force on 1.4.1997 by S.I. 1996/3201, **art. 3(7)**) but the said art. 3(7) was substituted (7.3.1997) by S.I. 1997/744, **art. 4** with the result that the repeal in this section was excepted from the provisions to be brought into force); S.S.I. 2002/12, **art. 2**

104 Savings for powers of High Court.

Nothing in this Act shall restrict or affect the jurisdiction of the High Court to appoint or remove guardians, or otherwise in respect of children.

^{F9}**105**

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Textual Amendments

F9 S. 105 repealed (1.4.1997) by 1995 c. 36, ss. 102, 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**

106 Regulations and orders.

- (1) Where a power to make regulations or orders is exercisable by the Secretary of State by virtue of this Act, regulations or orders made in the exercise of that power shall be made by statutory instrument and may—
 - (a) make different provision in relation to different cases or classes of case, and
 - (b) exclude certain cases or classes of case.
- (2) A statutory instrument containing regulations made by the Secretary of State under section 103 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred on the Secretary of State by this Act to make orders includes a power to vary or revoke an order so made.

107 Interpretation.

- (1) In this Act, unless the context otherwise requires—

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“child”, except where used to express a relationship, means a person who has not attained the age of 18;
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“voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit.

F10(2)

(2A) F13

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F10(3)

F10(4)

Textual Amendments

- F10** S. 107 repealed except the definitions of “adoption society”, “child” and “voluntary organisation” (I.4.1997) by 1995 c. 36, ss. 105(4)(5), Sch. 4 para. 26(9), **Sch. 5** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**
- F11** Definitions repealed (E.W.) by Adoption Act 1976 (c. 36, SIF 49:11), s. 74(2), Sch. 4 and words in s. 107(1) repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **Sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F12** Definitions repealed (S.) by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), s. 66, Sch. 2 para. 3, **Sch. 4** and (E.W.) by Adoption Act 1976 (c. 36, SIF 49:11), s. 74(2), **Sch. 4**
- F13** S. 107(2A) repealed by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), Sch. 2 para. 3, **Sch. 3**

108 Amendments, repeals, commencement and transitory provisions.

- (1) Subject to the following provisions of this section
- (a) the enactments specified in Schedule 3 shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential on the preceding provisions of this Act), and
 - (b) the enactments specified in Schedule 4 are repealed to the extent shown in column 3 of that Schedule.
- (2) This Act, except the provisions specified in subsections (3) and (4), shall come into force on such date as the Secretary of State may by order appoint and different dates may be appointed for, or for different purposes of, different provisions.
- (3) Sections 71, 72 and 82, this section, section 109 and paragraph 57 of Schedule 3 shall come into force on the passing of this Act.
- (4) The following provisions of this Act shall come into force on 1st January 1976—
- (a) sections 3, 8(9) and (10), 13, 59, 83 to 91, 94, 98, 99, 100 and 103 to 107;
 - (b) Schedules 1 and 2;
 - (c) in Schedule 3, paragraphs 1, 2, 3, 4, 6, 8, 9, 13(6), 15, 17, 18, 19, 20, 21(1) (2) and (4), 22 to 25, 27(b), 29, 33, 34(b), 35, 36(b), 38, 39(c) (d) and (e), 40, 43, 48, 49, 51(a), 52(f)(ii) and (g)(ii), 54, 55, 58 to 63, 65 to 70, 75(3), 77, 78, 81 and 83;
 - (d) Parts I, II and III of Schedule 4.
- [^{F14}(5) Until the date appointed under subsection (2) or sections 4 to 7, in this Act and in the 1958 Act “adoption agency” means a local authority or a registered adoption society within the meaning of the 1958 Act.
- (6) Until the date so appointed for section 12, section 5(1) of the 1958 Act shall, in relation to an application made after 31st December 1975 for an adoption order, have effect with the addition at the end of paragraph (b) of the following words
- (c) has seriously ill-treated the child and that (whether because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of that person is unlikely.”]

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- (7) Until the date so appointed for section 18, section 21A of the ^{M2}Children and Young Persons Act 1969 shall have effect as if for references to section 25 there were substituted references to section 53 of the 1958 Act.
- (8) An order under subsection (2) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or any provision of this Act then in force or any provision of the 1958 Act as appear to him to be necessary or expedient in consequence of the partial operation of this Act.

Textual Amendments

- F14** S. 108(5)(6) repealed (S.) by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), s. 66(3), Sch. 2 para. 3, Sch. 4

Modifications etc. (not altering text)

- C1** The text of ss. 48(3)(4), 64, 66, 68, 70, 71, 73–84, 90, 92, 108(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C2** Power of appointment conferred by s. 108(2) partly exercised; 1976/1744; 1977/227, 1036; 1978/1433, 1440; 1980/1475; 1981/1792; 1982/33; 1983/86; 107, 1946; 1984/554, 1702; 1985/779, 1557, 1987/1242

Marginal Citations

- M2** 1969 c. 54.

109 Short title and extent.

- (1) This Act may be cited as the Children Act 1975.
- (2) This Act, except—
- (a) section 68;
 - (b) paragraphs 10, 11 . . . ^{F15} of Schedule 3;
 - (c) ^{F15} does not extend to Northern Ireland.
- (3) ^{F16}

Textual Amendments

- F15** Words and para. (c) repealed by British Nationality Act 1981 (c. 61, SIF 87), s. 52(8), Sch. 9
- F16** S. 109(3) repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:31), Sch. 10 Pt. I

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