



# Foster Children Act 1980

## 1980 CHAPTER 6

### *Foster children for purposes of the Act*

#### **1 Foster children**

Subject to section 2 below, a child is a foster child for the purposes of this Act if he is below the upper limit of the compulsory school age and his care and maintenance are undertaken by a person who is not a relative, guardian or custodian of his.

#### **2 Exceptions to section 1**

- (1) A child is not a foster child while he is in the care of a local authority or a voluntary organisation or is boarded out by a local authority or a local education authority.
- (2) A child is not a foster child while he is in the care of any person—
  - (a) in premises in which any parent, adult relative or guardian of his is for the time being residing;
  - (b) in any voluntary home within the meaning of Part VI of the Child Care Act 1980 ;
  - (c) in any school within the meaning of the Education Act 1944 in which he is receiving full-time education;
  - (d) in any hospital, or in any nursing home registered or exempted from registration under the Nursing Homes Act 1975; or
  - (e) in any home or institution not specified in this subsection or subsection (5) below but maintained by a public or local authority.
- (3) A child is not a foster child at any time while his care and maintenance are undertaken by any person—
  - (a) who is not a regular foster parent and at that time does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than 27 days; or
  - (b) who is a regular foster parent but at that time does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than six days.

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*Status: This is the original version (as it was originally enacted).*

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In this subsection "regular foster parent" means a person who—

- (i) during the period of 12 months immediately preceding the date on which he begins to undertake the care and maintenance of the child in question, and
- (ii) otherwise than as a relative or guardian,

had the care and maintenance of one or more children either for a period of, or periods amounting in the aggregate to, not less than three months or for at least three continuous periods each of which was of more than six days.

- (4) A child is not a foster child while he is in the care of any person in compliance with a supervision order within the meaning of the Children and Young Persons Act 1969 or a supervision requirement within the meaning of the Social Work (Scotland) Act 1968.
- (5) A child is not a foster child while he is liable to be detained or subject to guardianship under the Mental Health Act 1959, or is resident in a residential home for mentally disordered persons within the meaning of the Residential Homes Act 1980.
- (6) A child is not a foster child—
  - (a) while he is placed in the care and possession of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of section 1 of the Adoption Act 1976 or section 1 of the Adoption (Scotland) Act 1978 ; or
  - (b) while he is a protected child within the meaning of Part III of the Adoption Act 1976.