



Children Act 1989

1989 CHAPTER 41

PART IX

PRIVATE ARRANGEMENTS FOR FOSTERING CHILDREN

66 Privately fostered children

- (1) In this Part—
 - (a) “a privately fostered child” means a child who is under the age of sixteen and who is cared for, and provided with accommodation by, someone other than—
 - (i) a parent of his;
 - (ii) a person who is not a parent of his but who has parental responsibility for him; or
 - (iii) a relative of his; and
 - (b) “to foster a child privately” means to look after the child in circumstances in which he is a privately fostered child as defined by this section.
- (2) A child is not a privately fostered child if the person caring for and accommodating him—
 - (a) has done so for a period of less than 28 days; and
 - (b) does not intend to do so for any longer period.
- (3) Subsection (1) is subject to—
 - (a) the provisions of section 63; and
 - (b) the exceptions made by paragraphs 1 to 5 of Schedule 8.
- (4) In the case of a child who is disabled, subsection (1)(a) shall have effect as if for “sixteen” there were substituted “eighteen”.
- (5) Schedule 8 shall have effect for the purposes of supplementing the provision made by this Part.

67 Welfare of privately fostered children

- (1) It shall be the duty of every local authority to satisfy themselves that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted and to secure that such advice is given to those caring for them as appears to the authority to be needed.
- (2) The Secretary of State may make regulations—
 - (a) requiring every child who is privately fostered within a local authority's area to be visited by an officer of the authority—
 - (i) in prescribed circumstances; and
 - (ii) on specified occasions or within specified periods; and
 - (b) imposing requirements which are to be met by any local authority, or officer of a local authority, in carrying out functions under this section.
- (3) Where any person who is authorised by a local authority to visit privately fostered children has reasonable cause to believe that—
 - (a) any privately fostered child is being accommodated in premises within the authority's area; or
 - (b) it is proposed to accommodate any such child in any such premises,he may at any reasonable time inspect those premises and any children there.
- (4) Any person exercising the power under subsection (3) shall, if so required, produce some duly authenticated document showing his authority to do so.
- (5) Where a local authority are not satisfied that the welfare of any child who is privately fostered within their area is being satisfactorily safeguarded or promoted they shall—
 - (a) unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) a relative of his; and
 - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

68 Persons disqualified from being private foster parents

- (1) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if he is disqualified from doing so by regulations made by the Secretary of State for the purposes of this section.
- (2) The regulations may, in particular, provide for a person to be so disqualified where—
 - (a) an order of a kind specified in the regulations has been made at any time with respect to him;
 - (b) an order of a kind so specified has been made at any time with respect to any child who has been in his care;
 - (c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;
 - (d) he has been convicted of any offence of a kind so specified, or has been placed on probation or discharged absolutely or conditionally for any such offence;

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

- (e) a prohibition has been imposed on him at any time under section 69 or under any other specified enactment;
 - (f) his rights and powers with respect to a child have at any time been vested in a specified authority under a specified enactment.
- (3) Unless he has disclosed the fact to the appropriate local authority and obtained their written consent, a person shall not foster a child privately if—
- (a) he lives in the same household as a person who is himself prevented from fostering a child by subsection (1); or
 - (b) he lives in a household at which any such person is employed.
- (4) Where an authority refuse to give their consent under this section, they shall inform the applicant by a written notice which states—
- (a) the reason for the refusal;
 - (b) the applicant's right under paragraph 8 of Schedule 8 to appeal against the refusal; and
 - (c) the time within which he may do so.
- (5) In this section—
- “the appropriate authority” means the local authority within whose area it is proposed to foster the child in question; and
 - “enactment” means any enactment having effect, at any time, in any part of the United Kingdom.

69 Power to prohibit private fostering

- (1) This section applies where a person—
- (a) proposes to foster a child privately; or
 - (b) is fostering a child privately.
- (2) Where the local authority for the area within which the child is proposed to be, or is being, fostered are of the opinion that—
- (a) he is not a suitable person to foster a child;
 - (b) the premises in which the child will be, or is being, accommodated are not suitable; or
 - (c) it would be prejudicial to the welfare of the child for him to be, or continue to be, accommodated by that person in those premises,
- the authority may impose a prohibition on him under subsection (3).
- (3) A prohibition imposed on any person under this subsection may prohibit him from fostering privately—
- (a) any child in any premises within the area of the local authority; or
 - (b) any child in premises specified in the prohibition;
 - (c) a child identified in the prohibition, in premises specified in the prohibition.
- (4) A local authority who have imposed a prohibition on any person under subsection (3) may, if they think fit, cancel the prohibition—
- (a) of their own motion; or
 - (b) on an application made by that person,
- if they are satisfied that the prohibition is no longer justified.

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

- (5) Where a local authority impose a requirement on any person under paragraph 6 of Schedule 8, they may also impose a prohibition on him under subsection (3).
- (6) Any prohibition imposed by virtue of subsection (5) shall not have effect unless—
 - (a) the time specified for compliance with the requirement has expired; and
 - (b) the requirement has not been complied with.
- (7) A prohibition imposed under this section shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—
 - (a) the reason for imposing the prohibition;
 - (b) his right under paragraph 8 of Schedule 8 to appeal against the prohibition; and
 - (c) the time within which he may do so.

70 Offences

- (1) A person shall be guilty of an offence if—
 - (a) being required, under any provision made by or under this Part, to give any notice or information—
 - (i) he fails without reasonable excuse to give the notice within the time specified in that provision; or
 - (ii) he fails without reasonable excuse to give the information within a reasonable time; or
 - (iii) he makes, or causes or procures another person to make, any statement in the notice or information which he knows to be false or misleading in a material particular;
 - (b) he refuses to allow a privately fostered child to be visited by a duly authorised officer of a local authority;
 - (c) he intentionally obstructs another in the exercise of the power conferred by section 67(3);
 - (d) he contravenes section 68;
 - (e) he fails without reasonable excuse to comply with any requirement imposed by a local authority under this Part;
 - (f) he accommodates a privately fostered child in any premises in contravention of a prohibition imposed by a local authority under this Part;
 - (g) he knowingly causes to be published, or publishes, an advertisement which he knows contravenes paragraph 10 of Schedule 8.
- (2) Where a person contravenes section 68(3), he shall not be guilty of an offence under this section if he proves that he did not know, and had no reasonable ground for believing, that any person to whom section 68(1) applied was living or employed in the premises in question.
- (3) A person guilty of an offence under subsection (1)(a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under subsection (1)(b), (c) or (g) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person guilty of an offence under subsection (1)(d) or (f) shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

- (6) A person guilty of an offence under subsection (1)(e) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) If any person who is required, under any provision of this Part, to give a notice fails to give the notice within the time specified in that provision, proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the local authority.
- (8) Subsection (7) is not affected by anything in section 127(1) of the Magistrates' Courts Act 1980 (time limit for proceedings).