

Status: Point in time view as at 01/10/1993.

Changes to legislation: Children Act 1989, SCHEDULE 12 is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 12

Section 108(4).

MINOR AMENDMENTS

The Custody of Children Act 1891 (c. 3)

- 1 The Custody of Children Act 1891 (which contains miscellaneous obsolete provisions with respect to the custody of children) shall cease to have effect.

Commencement Information

- I1** Sch. Pt. para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Children and Young Persons Act 1933 (c. 12)

- 2 In section 1(2)(a) of the Children and Young Persons Act 1933 (cruelty to persons under sixteen), after the words “young person” there shall be inserted “, or the legal guardian of a child or young person,” ”.

Commencement Information

- I2** Sch. 12 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 3 Section 40 of that Act shall cease to have effect.

Commencement Information

- I3** Sch. 12 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Education Act 1944 (c. 31)

- 4 ^{F1}

Textual Amendments

- F1** Sch. 12 para. 4 omitted (1.10.1993) by virtue of 1993 c. 35, s. 307(1), Sch. 19 para. 154 and repealed (1.4.1994) by s. 307(3), Sch. 21 Pt.I of the same 1993 Act; S.I. 1993/1975, art. 9, Sch. 1; S.I. 1993/3106, art. 4, Sch.1

The Marriage Act 1949 (c. 76)

- 5 (1) In section 3 of the Marriage Act 1949 (consent required to the marriage of a child by common licence or superintendent registrar’s certificate), in subsection (1) for the

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words “the Second Schedule to this Act” there shall be substituted “ subsection (1A) of this section” ”.

(2) After that subsection there shall be inserted—

“(1A) The consents are—

- (a) subject to paragraphs (b) to (d) of this subsection, the consent of—
 - (i) each parent (if any) of the child who has parental responsibility for him; and
 - (ii) each guardian (if any) of the child;
- (b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);
- (c) where a care order is in force with respect to the child, the consent of the local authority designated in the order (in addition to the consents mentioned in paragraph (a) of this subsection);
- (d) where neither paragraph (b) nor (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).

(1B) In this section “guardian of a child”, “parental responsibility”, “residence order” and “care order” have the same meaning as in the Children Act 1989.”

Commencement Information

I4 Sch. 12 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Births and Deaths Registration Act 1953 (c. 20)

6 (1) Sections 10 and 10A of the Births and Deaths Registration Act 1953 (registration of father, and re-registration, where parents not married) shall be amended as follows.

(2) In sections 10(1) and 10A(1) for paragraph (d) there shall be substituted—

- “(d) at the request of the mother or that person on production of—
 - (i) a copy of a parental responsibility agreement made between them in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with section 4 of the Children Act 1989 and has not been brought to an end by an order of a court; or
- (e) at the request of the mother or that person on production of—
 - (i) a certified copy of an order under section 4 of the Children Act 1989 giving that person parental responsibility for the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or

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- (f) at the request of the mother or that person on production of—
 - (i) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires that person to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court; or
- (g) at the request of the mother or that person on production of—
 - (i) a certified copy of any of the orders which are mentioned in subsection (1A) of this section which has been made in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end or discharged by an order of a court.”

(3) After sections 10(1) and 10A(1) there shall be inserted—

“(1A) The orders are—

- (a) an order under section 4 of the Family Law Reform Act 1987 that that person shall have all the parental rights and duties with respect to the child;
- (b) an order that that person shall have custody or care and control or legal custody of the child made under section 9 of the Guardianship of Minors Act 1971 at a time when such an order could only be made in favour of a parent;
- (c) an order under section 9 or 11B of that Act which requires that person to make any financial provision in relation to the child;
- (d) an order under section 4 of the Affiliation Proceedings Act 1957 naming that person as putative father of the child.”

(4) In section 10(2) for the words “or (d)” there shall be substituted “to (g)”.

(5) In section 10(3) for the words from ““relevant order”” to the end there shall be substituted

““parental responsibility agreement” has the same meaning as in the Children Act 1989”.

(6) In section 10A(2) in paragraphs (b) and (c) for the words “paragraph (d)” in both places where they occur there shall be substituted “any of paragraphs (d) to (g)”.

Commencement Information

I5 Sch. 12 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Army Act 1955 (c. 18)

7

In section 151 of the Army Act 1955 (deductions from pay for maintenance of wife or child), in subsection (1A)(a) for the words “in the care of a local authority in England or Wales” there shall be substituted “being looked after by a local authority in England or Wales (within the meaning of the Children Act 1989)”.

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Commencement Information

I6 Sch. 12 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F²8

Textual Amendments

F2 Sch. 12 para. 8 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**, Sch. (with art. 3(1))

The Air Force Act 1955 (c. 19)

- 9 Section 151(1A) of the Air Force Act 1955 (deductions from pay for maintenance of wife or child) shall have effect subject to the amendment that is set out in paragraph 7 in relation to section 151(1A) of the Army Act 1955.

Commencement Information

I7 Sch. 12 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F³10

Textual Amendments

F3 Sch. 12 para. 10 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**, Sch (with art. 3(1))

The Sexual Offences Act 1956 (c. 69)

- 11 In section 19(3) of the Sexual Offences Act 1956 (abduction of unmarried girl under eighteen from parent or guardian) for the words “the lawful care or charge of” there shall be substituted “ parental responsibility for or care of” ”.

Commencement Information

I8 Sch. 12 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 12 In section 20(2) of that Act (abduction of unmarried girl under sixteen from parent or guardian) for the words “the lawful care or charge of” there shall be substituted “ parental responsibility for or care of” ”.

Commencement Information

I9 Sch. 12 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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- 13 In section 21(3) of that Act (abduction of defective from parent or guardian) for the words “the lawful care or charge of” there shall be substituted “ parental responsibility for or care of” ”.

Commencement Information

I10 Sch. 12 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 14 In section 28 of that Act (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under sixteen) for subsections (3) and (4) there shall be substituted—

“(3) The persons who are to be treated for the purposes of this section as responsible for a girl are (subject to subsection (4) of this section)—

- (a) her parents;
- (b) any person who is not a parent of hers but who has parental responsibility for her; and
- (c) any person who has care of her.

(4) An individual falling within subsection (3)(a) or (b) of this section is not to be treated as responsible for a girl if—

- (a) a residence order under the Children Act 1989 is in force with respect to her and he is not named in the order as the person with whom she is to live; or
- (b) a care order under that Act is in force with respect to her.”

Commencement Information

I11 Sch. 12 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 15 Section 38 of that Act (power of court to divest person of authority over girl or boy in case of incest) shall cease to have effect.

Commencement Information

I12 Sch. 12 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 16 (1) In section 43 of that Act (power to search for and recover woman detained for immoral purposes), in subsection (5) for the words “the lawful care or charge of” there shall be substituted “ parental responsibility for or care of” ”.

(2) In subsection (6) of that section, for the words “section forty of the Children and Young Persons Act 1933” there shall be substituted “ Part V of the Children Act 1989” ”.

Commencement Information

I13 Sch. 12 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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17 After section 46 of that Act there shall be inserted—

“46A Meaning of “parental responsibility”.

In this Act “parental responsibility” has the same meaning as in the Children Act 1989.”

Commencement Information
I14 Sch. 12 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Naval Discipline Act 1957 (c. 53)

F418

Textual Amendments
F4 Sch. 12 para. 18 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), Sch.3; S.I. 1991/2719, art. 2,Sch. (with art. 3(1))

The Children and Young Persons Act 1963 (c. 37)

19 Section 3 of the Children and Young Persons Act 1963 (children and young persons beyond control) shall cease to have effect.

Commencement Information
I15 Sch. 12 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Children and Young Persons Act 1969 (c. 54)

20 In section 5 of the Children and Young Persons Act 1969 (restrictions on criminal proceedings for offences by young persons), in subsection (2), for the words “section 1 of this Act” there shall be substituted “ Part IV of the Children Act 1989”

Commencement Information
I16 Sch. 12 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

F521

Textual Amendments
F5 Sch. 12 para. 21 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), Sch.13; S.I. 1992/333, art. 2(2), Sch.2.

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22 In section 12A of that Act (young offenders) for subsections (1) and (2) there shall be substituted—

“(1) This subsection applies to any supervision order made under section 7(7) of this Act unless it requires the supervised person to comply with directions given by the supervisor under section 12(2) of this Act.”

Commencement Information

I17 Sch. 12 para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

23 After that section there shall be inserted—

“12AA Requirement for young offender to live in local authority accommodation.

- (1) Where the conditions mentioned in subsection (6) of this section are satisfied, a supervision order may impose a requirement (“a residence requirement”) that a child or young person shall live for a specified period in local authority accommodation.
- (2) A residence requirement shall designate the local authority who are to receive the child or young person and that authority shall be the authority in whose area the child or young person resides.
- (3) The court shall not impose a residence requirement without first consulting the designated authority.
- (4) A residence requirement may stipulate that the child or young person shall not live with a named person.
- (5) The maximum period which may be specified in a residence requirement is six months.
- (6) The conditions are that—
 - (a) a supervision order has previously been made in respect of the child or young person;
 - (b) that order imposed—
 - (i) a requirement under section 12A(3) of this Act; or
 - (ii) a residence requirement;
 - (c) he is found guilty of an offence which—
 - (i) was committed while that order was in force;
 - (ii) if it had been committed by a person over the age of twenty-one, would have been punishable with imprisonment; and
 - (iii) in the opinion of the court is serious; and
 - (d) the court is satisfied that the behaviour which constituted the offence was due, to a significant extent, to the circumstances in which he was living,

except that the condition in paragraph (d) of this subsection does not apply where the condition in paragraph (b)(ii) is satisfied.

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- (7) For the purposes of satisfying itself as mentioned in subsection (6)(d) of this section, the court shall obtain a social inquiry report which makes particular reference to the circumstances in which the child or young person was living.
- (8) Subsection (7) of this section does not apply if the court already has before it a social inquiry report which contains sufficient information about the circumstances in which the child or young person was living.
- (9) A court shall not include a residence requirement in respect of a child or young person who is not legally represented at the relevant time in that court unless—
 - (a) he has applied for legal aid for the purposes of the proceedings and the application was refused on the ground that it did not appear that his resources were such that he required assistance; or
 - (b) he has been informed of his right to apply for legal aid for the purposes of the proceedings and has had the opportunity to do so, but nevertheless refused or failed to apply.
- (10) In subsection (9) of this section—
 - (a) “the relevant time” means the time when the court is considering whether or not to impose the requirement; and
 - (b) “the proceedings” means—
 - (i) the whole proceedings; or
 - (ii) the part of the proceedings relating to the imposition of the requirement.
- (11) A supervision order imposing a residence requirement may also impose any of the requirements mentioned in sections 12, 12A, 12B or 12C of this Act.
- (12) In this section “social inquiry report” has the same meaning as in section 2 of the Criminal Justice Act 1982.”

Commencement Information

I18 Sch. 12 para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

F⁶24

Textual Amendments

F6 Sch. 12 para. 24 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), Sch.13; S.I. 1992/333, art. 2(2), Sch.2.

F⁷25

Textual Amendments

F7 Sch. 12 para. 25 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 31, Sch. 20; S.I. 1991/1883, art. 3, Sch.

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Commencement Information

119 Sch. 12 para. 25 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

26 For section 23 of that Act (remand to care of local authorities etc.) there shall be substituted—

“23 Remand to local authority accommodation, committal of young persons of unruly character, etc.

- (1) Where a court—
 - (a) remands or commits for trial a child charged with homicide or remands a child convicted of homicide; or
 - (b) remands a young person charged with or convicted of one or more offences or commits him for trial or sentence,
and he is not released on bail, then, unless he is a young person who is certified by the court to be of unruly character, the court shall remand him to local authority accommodation.
- (2) A court remanding a person to local authority accommodation shall designate the authority who are to receive him and that authority shall be the authority in whose area it appears to the court that—
 - (a) he resides; or
 - (b) the offence or one of the offences was committed.
- (3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.
- (4) The court shall not certify a young person as being of unruly character unless—
 - (a) he cannot safely be remanded to local authority accommodation; and
 - (b) the conditions prescribed by order made by the Secretary of State under this subsection are satisfied in relation to him.
- (5) Where the court certifies that a young person is of unruly character, it shall commit him—
 - (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
 - (b) to a prison, if it has not been so notified.
- (6) Where a young person is remanded to local authority accommodation, a court may, on the application of the designated authority, certify him to be of unruly character in accordance with subsection (4) of this section (and on so doing he shall cease to be remanded to local authority accommodation and subsection (5) of this section shall apply).
- (7) For the purposes of subsection (6) of this section,
“a court” means—
 - (a) the court which remanded the young person; or
 - (b) any magistrates’ court having jurisdiction in the place where that person is for the time being,
and in this section “court” and “magistrates’ court” include a justice.

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- (8) This section has effect subject to—
- (a) section 37 of the Magistrates' Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and
 - (b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),
- but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours."

Commencement Information

I20 Sch. 12 para. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 27 (1) In section 32 of that Act (detention of absentees), for subsection (1A) there shall be substituted the following subsections—
- “(1A) If a child or young person is absent, without the consent of the responsible person—
- (a) from a place of safety to which he has been taken under section 16(3) of this Act; or
 - (b) from local authority accommodation—
 - (i) in which he is required to live under section 12AA of this Act; or
 - (ii) to which he has been remanded under section 23(1) of this Act,
 he may be arrested by a constable anywhere in the United Kingdom or Channel Islands without a warrant.
- (1B) A person so arrested shall be conducted to—
- (a) the place of safety;
 - (b) the local authority accommodation; or
 - (c) such other place as the responsible person may direct,
- at the responsible person's expense.
- (1C) In this section “the responsible person” means the person who made the arrangements under section 16(3) of this Act or, as the case may be, the authority designated under section 12AA or 23 of this Act.”
- (2) In subsection (2B) of that section for the words “person referred to in subsection (1A) (a) or (b) (as the case may be) of this section” there shall be substituted “responsible person”.

Commencement Information

I21 Sch. 12 para. 27 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 28 In section 34(1) of that Act (transitional modifications of Part I for persons of specified ages)—

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- (a) in paragraph (a), for the words “13(2) or 28(4) or (5)” there shall be substituted “ or 13(2) ”; and
- (b) in paragraph (e), for the words “section 23(2) or (3)” there shall be substituted “ section 23(4) to (6) ”.

Commencement Information

I22 Sch. 12 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

29 In section 70(1) of that Act (interpretation)—

- (a) after the definition of “local authority” there shall be inserted—

““local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989); and

- (b) in the definition of “reside” for “12(4) and (5)” there shall be substituted “12B(1) and (2)”.

Commencement Information

I23 Sch. 12 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

30 In section 73 of that Act (extent, etc.)—

- (a) in subsection (4)(a) for “32(1), (3) and (4)” there shall be substituted “ 32(1) to (1C) and (2A) to (4) ”; and
- (b) in subsection (6) for “32(1), (1A)” there shall be substituted “ 32(1) to (1C) ”.

Extent Information

E1 Sch. 12 para. 30(a) extends to Scotland see s. 108(11)

Commencement Information

I24 Sch. 12 para. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Matrimonial Causes Act 1973 (c. 18)

31 For section 41 of the Matrimonial Causes Act 1973 (restrictions on decrees for dissolution, annulment or separation affecting children) there shall be substituted—

“41 Restrictions on decrees for dissolution, annulment or separation affecting children.

- (1) In any proceedings for a decree of divorce or nullity of marriage, or a decree of judicial separation, the court shall consider—
 - (a) whether there are any children of the family to whom this section applies; and
 - (b) where there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their

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upbringing and welfare) it should exercise any of its powers under the Children Act 1989 with respect to any of them.

- (2) Where, in any case to which this section applies, it appears to the court that—
- (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the Act of 1989 with respect to any such child;
 - (b) it is not in a position to exercise that power or (as the case may be) those powers without giving further consideration to the case; and
 - (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section,

it may direct that the decree of divorce or nullity is not to be made absolute, or that the decree of judicial separation is not to be granted, until the court orders otherwise.

- (3) This section applies to—
- (a) any child of the family who has not reached the age of sixteen at the date when the court considers the case in accordance with the requirements of this section; and
 - (b) any child of the family who has reached that age at that date and in relation to whom the court directs that this section shall apply.”

Commencement Information

I25 Sch. 12 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 32 In section 42 of that Act, subsection (3) (declaration by court that party to marriage unfit to have custody of children of family) shall cease to have effect.

Commencement Information

I26 Sch. 12 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 33 In section 52(1) of that Act (interpretation), in the definition of “child of the family”, for the words “has been boarded-out with those parties” there shall be substituted “is placed with those parties as foster parents”.

Commencement Information

I27 Sch. 12 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The National Health Service Act 1977 (c. 49)

- 34 In Schedule 8 to the National Health Service Act 1977 (functions of local social services authorities), the following sub-paragraph shall be added at the end of paragraph 2—

“(4A) This paragraph does not apply in relation to persons under the age of 18.”

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Commencement Information

I28 Sch. 12 para. 34 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2))

The Child Care Act 1980 (c. 5)

- 35 Until the repeal of the Child Care Act 1980 by this Act takes effect, the definition of “parent” in section 87 of that Act shall have effect as if it applied only in relation to Part I and sections 13, 24, 64 and 65 of that Act (provisions excluded by section 2(1)(f) of the ^{M1}Family Law Reform Act 1987 from the application of the general rule in that Act governing the meaning of references to relationships between persons).

Marginal Citations

M1 1987 c. 42.

The Education Act 1981 (c. 60)

- 36 The following section shall be inserted in the Education Act 1981, after section 3—

“3A Provision outside England and Wales for certain children.

- (1) A local authority may make such arrangements as they think fit to enable any child in respect of whom they maintain a statement under section 7 to attend an establishment outside England and Wales which specialises in providing for children with special needs.
- (2) In subsection (1) above “children with special needs” means children who have particular needs which would be special educational needs if those children were in England and Wales.
- (3) Where an authority make arrangements under this section with respect to a child, those arrangements may, in particular, include contributing to or paying—
 - (a) fees charged by the establishment;
 - (b) expenses reasonably incurred in maintaining him while he is at the establishment or travelling to or from it;
 - (c) those travelling expenses;
 - (d) expenses reasonably incurred by any person accompanying him while he is travelling or staying at the establishment.
- (4) This section is not to be taken as in any way limiting any other powers of a local education authority.”

The Child Abduction Act 1984 (c. 37)

- 37 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction by parent, etc.) shall be amended as follows.
- (2) For subsections (2) to (4) there shall be substituted—

Status: Point in time view as at 01/10/1993.

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- “(2) A person is connected with a child for the purposes of this section if—
- (a) he is a parent of the child; or
 - (b) in the case of a child whose parents were not married to each other at the time of his birth, there are reasonable grounds for believing that he is the father of the child; or
 - (c) he is a guardian of the child; or
 - (d) he is a person in whose favour a residence order is in force with respect to the child; or
 - (e) he has custody of the child.
- (3) In this section “the appropriate consent”, in relation to a child, means—
- (a) the consent of each of the following—
 - (i) the child’s mother;
 - (ii) the child’s father, if he has parental responsibility for him;
 - (iii) any guardian of the child;
 - (iv) any person in whose favour a residence order is in force with respect to the child;
 - (v) any person who has custody of the child; or
 - (b) the leave of the court granted under or by virtue of any provision of Part II of the Children Act 1989; or
 - (c) if any person has custody of the child, the leave of the court which awarded custody to him.
- (4) A person does not commit an offence under this section by taking or sending a child out of the United Kingdom without obtaining the appropriate consent if—
- (a) he is a person in whose favour there is a residence order in force with respect to the child, and
 - (b) he takes or sends him out of the United Kingdom for a period of less than one month.
- (4A) Subsection (4) above does not apply if the person taking or sending the child out of the United Kingdom does so in breach of an order under Part II of the Children Act 1989.”
- (3) In subsection (5) for the words from “but” to the end there shall be substituted—
- “(5A) Subsection (5)(c) above does not apply if—
- (a) the person who refused to consent is a person—
 - (i) in whose favour there is a residence order in force with respect to the child; or
 - (ii) who has custody of the child; or
 - (b) the person taking or sending the child out of the United Kingdom is, by so acting, in breach of an order made by a court in the United Kingdom.”
- (4) For subsection (7) there shall be substituted—
- “(7) For the purposes of this section—

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- (a) “guardian of a child”, “residence order” and “parental responsibility” have the same meaning as in the Children Act 1989; and
 - (b) a person shall be treated as having custody of a child if there is in force an order of a court in the United Kingdom awarding him (whether solely or jointly with another person) custody, legal custody or care and control of the child.”
- (5) In subsection (8) for the words from “or voluntary organisation” to “custodianship proceedings or” there shall be substituted “detained in a place of safety, remanded to a local authority accommodation or the subject of” ”.

Commencement Information

I29 Sch. 12 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 38 (1) In section 2 of that Act (offence of abduction of child by other persons), in subsection (1) for the words from “Subject” to “above” there shall be substituted “Subject to subsection (3) below, a person, other than one mentioned in subsection (2) below.” ”
- (2) For subsection (2) of that section there shall be substituted—
- “(2) The persons are—
- (a) where the father and mother of the child in question were married to each other at the time of his birth, the child’s father and mother;
 - (b) where the father and mother of the child in question were not married to each other at the time of his birth, the child’s mother; and
 - (c) any other person mentioned in section 1(2)(c) to (e) above.
- (3) In proceedings against any person for an offence under this section, it shall be a defence for that person to prove—
- (a) where the father and mother of the child in question were not married to each other at the time of his birth—
 - (i) that he is the child’s father; or
 - (ii) that, at the time of the alleged offence, he believed, on reasonable grounds, that he was the child’s father; or
 - (b) that, at the time of the alleged offence, he believed that the child had attained the age of sixteen.”

Commencement Information

I30 Sch. 12 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 39 At the end of section 3 of that Act (construction of references to taking, sending and detaining) there shall be added “and
- (d) references to a child’s parents and to a child whose parents were (or were not) married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987 (which extends their meaning).”

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Commencement Information

I31 Sch. 12 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 40 (1) The Schedule to that Act (modifications of section 1 for children in certain cases) shall be amended as follows.
- (2) In paragraph 1(1) for the words “or voluntary organisation” there shall be substituted “within the meaning of the Children Act 1989”.
- (3) For paragraph 2(1) there shall be substituted—
- “(1) This paragraph applies in the case of a child who is—
- (a) detained in a place of safety under section 16(3) of the Children and Young Persons Act 1969; or
- (b) remanded to local authority accommodation under section 23 of that Act.”
- (4) In paragraph 3(1)—
- (a) in paragraph (a) for the words “section 14 of the Children Act 1975” there shall be substituted “section 18 of the Adoption Act 1976”; and
- (b) in paragraph (d) for the words “section 25 of the Children Act 1975 or section 53 of the Adoption Act 1958” there shall be substituted “section 55 of the Adoption Act 1976”.
- (5) In paragraph 3(2)(a)—
- (a) in sub-paragraph (i), for the words from “order or,” to “Children Act 1975” there shall be substituted “section 18 order or, if the section 18 order has been varied under section 21 of that Act so as to give parental responsibility to another agency””, and
- (b) in sub-paragraph (ii), for the words “(c) or (e)” there shall be substituted “or (c)”.
- (6) At the end of paragraph 3 there shall be added—
- “(3) Sub-paragraph (2) above shall be construed as if the references to the court included, in any case where the court is a magistrates’ court, a reference to any magistrates’ court acting for the same area as that court”.
- (7) For paragraph 5 there shall be substituted—
- “5 In this Schedule—
- (a) “adoption agency” and “adoption order” have the same meaning as in the Adoption Act 1976; and
- (b) “area”, in relation to a magistrates’ court, means the petty sessions area (within the meaning of the Justices of the Peace Act 1979) for which the court is appointed.”

Commencement Information

I32 Sch. 12 para. 40 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 01/10/1993.

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The Foster Children (Scotland) Act 1984 (c. 56)

- 41 In section 1 of the Foster Children (Scotland) Act 1984 (definition of foster child)—
- (a) for the words “he is— (a)” there shall be substituted “ (a) he is ”; and
 - (b) the words “for a period of more than 6 days” and the words from “The period” to the end shall cease to have effect..

Commencement Information

I33 Sch. 12 para. 41 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 42 In section 2(2) of that Act (exceptions to section 1), for paragraph (f) there shall be substituted—
- “(f) if he has been in that person’s care for a period of less than 28 days and that person does not intend to undertake his care for any longer period.”

Commencement Information

I34 Sch. 12 para. 42 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 43 In section 7(1) of that Act (persons disqualified from keeping foster children)—
- (a) the word “or” at the end of paragraph (e) shall be omitted; and
 - (b) after paragraph (f) there shall be inserted “or
 - (g) he is disqualified from fostering a child privately (within the meaning of the Children Act 1989) by regulations made under section 68 of that Act.”.

Commencement Information

I35 Sch. 12 para. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 44 In section 2(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (circumstances in which authorised representative has right to visit etc. disabled person), after paragraph (d) there shall be inserted—
- “(dd) in accommodation provided by any educational establishment.”

Commencement Information

I36 Sch. 12 para. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Legal Aid Act 1988 (c. 34)

- 45 In paragraph 2 of Part I of Schedule 2 to the Legal Aid Act 1988 (proceedings in magistrates’ courts to which the civil legal aid provisions of Part IV of the Act apply), the following sub-paragraph shall be added at the end—

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“(g) proceedings under the Children Act 1989.”

.....
Commencement Information

I37 Sch. 12 para. 45 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status:

Point in time view as at 01/10/1993.

Changes to legislation:

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