



Children and Young Persons Act 1969

1969 CHAPTER 54

PART I

CARE AND OTHER TREATMENT OF JUVENILES THROUGH COURT PROCEEDINGS

[^{F1} Care of children and young persons through juvenile courts]

Textual Amendments

- F1** Ss. 1–3 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), Sch. 15

1 Care proceedings in juvenile courts.

- (1) Any local authority, constable or authorised person who reasonably believes that there are grounds for making an order under this section in respect of a child or young person may, subject to section 2(3) and (8) of this Act, bring him before a juvenile court.
 - (2) If the court before which a child or young person is brought under this section is of opinion that any of the following conditions is satisfied with respect to him, that is to say—
 - (a) his proper development is being avoidably prevented or neglected or his health is being avoidably impaired or neglected or he is being ill-treated; or
 - (b) it is probable that the condition set out in the preceding paragraph will be satisfied in his case, having regard to the fact that the court or another court has found that that condition is or was satisfied in the case of another child or young person who is or was a member of the household to which he belongs; or
- ^{F2}(bb) it is probable that the conditions set out in paragraph (a) of this subsection will be satisfied in his case, having regard to the fact that a person who has been convicted of an offence mentioned in Schedule 1 to the Act of 1933, including a person convicted of such an offence on whose conviction for the offence an

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order was made under Part I of the ^{M1}Powers of Criminal Courts Act 1973 placing him on probation or discharging him absolutely or conditionally is, or may become, a member of the same household as the child or young person;]

- (c) he is exposed to moral danger; or
- (d) he is beyond the control of his parent or guardian; or
- (e) he is of compulsory school age within the meaning of the ^{M2}Education Act 1944 and is not receiving efficient full-time education suitable to his age, ability and aptitude [^{F3}and to any special educational needs he may have]; or
- (f) he is guilty of an offence, excluding homicide,

and also that he is in need of care or control which he is unlikely to receive unless the court makes an order under this section in respect of him, then, subject to the following provisions of this section and sections 2 and 3 of this Act, the court may if it thinks fit make such an order.

- (3) The order which a court may make under this section in respect of a child or young person is—
 - (a) an order requiring his parent or guardian to enter into a recognisance to take proper care of him and exercise proper control over him; or
 - (b) a supervision order; or
 - (c) a care order (other than an interim order); or
 - (d) a hospital order within the meaning of [^{F4}Part III of the ^{M3}Mental Health Act 1983]; or
 - (e) a guardianship order within the meaning of that Act.
- (4) In any proceedings under this section the court may make orders in pursuance of paragraphs (c) and (d) of the preceding subsection but subject to that shall not make more than one of the orders mentioned in the preceding subsection, without prejudice to any power to make a further order in subsequent proceedings of any description; and if in proceedings under this section the court makes one of those orders and an order so mentioned is already in force in respect of the child or young person in question, the court may discharge the earlier order unless it is a hospital or guardianship order.
- (5) An order under this section shall not be made in respect of a child or young person—
 - (a) in pursuance of paragraph (a) of subsection (3) of this section unless the parent or guardian in question consents;
 - (b) in pursuance of paragraph (d) or (e) of that subsection unless the conditions which, under [^{F5}section 37 of the said Act of 1983], are required to be satisfied for the making of a hospital or guardianship order in respect of a person convicted as mentioned in that section are satisfied in his case so far as they are applicable;
 - (c) if he has attained the age of sixteen and is or has been married.
- (6) In this section “authorised person” means a person authorised by order of the Secretary of State to bring proceedings in pursuance of this section and any officer of a society which is so authorised, and in sections 2 and 3 of this Act “care proceedings” means proceedings in pursuance of this section and “relevant infant” means the child or young person in respect of whom such proceedings are brought or proposed to be brought.

Textual Amendments

- F2** S. 1(2)(bb) substituted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 2 para. 10](#)

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- F3** Words inserted by [Education Act 1981 \(c. 60, SIF 41\)](#), **Sch. 3 para. 9**
F4 Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 4 para. 26(a)**
F5 Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 4 para. 26(b)**

Modifications etc. (not altering text)

- C1** [S. 1\(2\)](#) restricted by [Child Abduction and Custody Act 1985 \(c. 60, SIF 20\)](#), **ss. 9(a)**, 12, 20(2)(a), Sch. 1 art. 16

Marginal Citations

- M1** [1973 c. 62\(39:1\)](#).
M2 [1944 c. 31\(41:1\)](#).
M3 [1983 c. 20\(85\)](#).

[^{F6}2 Provisions supplementary to s. 1.

- (1) If a local authority receive information suggesting that there are grounds for bringing care proceedings in respect of a child or young person who resides or is found in their area, it shall be the duty of the authority to cause enquiries to be made into the case unless they are satisfied that such enquiries are unnecessary.
- (2) If it appears to a local authority that there are grounds for bringing care proceedings in respect of a child or young person who resides or is found in their area, it shall be the duty of the authority to exercise their power under the preceding section to bring care proceedings in respect of him unless they are satisfied that it is neither in his interest nor the public interest to do so or that some other person is about to do so or to charge him with an offence.
- (3) No care proceedings shall be begun by any person unless that person has given notice of the proceedings to the local authority for the area in which it appears to him that the relevant infant resides or, if it appears to him that the relevant infant does not reside in the area of a local authority, to the local authority for any area in which it appears to him that any circumstances giving rise to the proceedings arose; but the preceding provisions of this subsection shall not apply where the person by whom the notice would fall to be given is the local authority in question.
- (4) Without prejudice to any power to issue a summons or warrant apart from this subsection, a justice may issue a summons or warrant for the purpose of securing the attendance of the relevant infant before the court in which care proceedings are brought or proposed to be brought in respect of him; but [^{F7}subsections (3) and (4) of section 55 of the ^{M4}Magistrates' Courts Act 1980] (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under this subsection as they apply to a warrant under that section and as if in subsection (3) after the word "summons" there were inserted the words "cannot be served or".
- (5) Where the relevant infant is arrested in pursuance of a warrant issued by virtue of the preceding subsection and cannot be brought immediately before the court aforesaid, the person in whose custody he is—
 - (a) may make arrangements for his detention in a place of safety for a period of not more than seventy-two hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
 - (b) shall within that period, unless within it the relevant infant is brought before the court aforesaid, bring him before a justice;

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and the justice shall either make an interim order in respect of him or direct that he be released forthwith.

(6) [^{F8}Section 97 of the ^{M5}Magistrates' Courts Act 1980] (under which a summons or warrant may be issued to secure the attendance of a witness) shall apply to care proceedings as it applies to the hearing of a complaint.

(7) In determining whether the condition set out in subsection (2)(b) of the preceding section is satisfied in respect of the relevant infant, it shall be assumed that no order under that section is to be made in respect of him.

(8) In relation to the condition set out in subsection (2)(e) of the preceding section the references to a local authority in that section and subsections (1), (2) and (11) (b) of this section shall be construed as references to a local education authority; and in any care proceedings—

(a) the court shall not entertain an allegation that that condition is satisfied unless the proceedings are brought by a local education authority; and

(b) the said condition shall be deemed to be satisfied if the relevant infant is of the age mentioned in that condition and it is proved that he—

(i) is the subject of a school attendance order which is in force under section 37 of the ^{M6}Education Act 1944 and has not been complied with, or

(ii) is a registered pupil at a school which he is not attending regularly within the meaning of section 39 of that Act, or

(iii) is a person whom another person habitually wandering from place to place takes with him,

unless it is also proved that he is receiving the education mentioned in that condition;

but nothing in paragraph (a) of this subsection shall prevent any evidence from being considered in care proceedings for any purpose other than that of determining whether that condition is satisfied in respect of the relevant infant.

(9) If on application under this subsection to the court in which it is proposed to bring care proceedings in respect of a relevant infant who is not present before the court it appears to the court that he is under the age of five and either—

(a) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed by rules under [^{F9}section 144 of the ^{M7}Magistrates' Courts Act 1980], that notice of the proposal to bring the proceedings at the time and place at which the application is made was served on the parent or guardian of the relevant infant at what appears to the court to be a reasonable time before the making of the application; or

(b) it appears to the court that his parent or guardian is present before the court

the court may if it thinks fit, after giving the parent or guardian if he is present an opportunity to be heard, give a direction under this subsection in respect of the relevant infant; and a relevant infant in respect of whom such a direction is given by a court shall be deemed to have been brought before the court under section 1 of this Act at the time of the direction, and care proceedings in respect of him may be continued accordingly.

(10) If the court before which the relevant infant is brought in care proceedings is not in a position to decide what order, if any, ought to be made under the preceding section in respect of him, [^{F10}the court may make—

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- (a) an interim order; or
- (b) an interim hospital order within the meaning of [F11section 38 of the M8Mental Health Act 1983]

in respect of him; but an order shall not be made in respect of the relevant infant in pursuance of paragraph (b) of this subsection unless the conditions which, under [F11the said section 38], are required to be satisfied for the making of an interim hospital order in respect of a person convicted as mentioned in that section are satisfied in his case so far as they are applicable.]

- (11) If it appears to the court before which the relevant infant is brought in care proceedings that he resides in a petty sessions area other than that for which the court acts, the court shall, unless it dismisses the case and subject to subsection (5) of the following section, direct that he be brought under the preceding section before a juvenile court acting for the petty sessions area in which he resides; and where the court so directs—
 - (a) it may make an interim order in respect of him and, if it does so, shall cause the clerk of the court to which the direction relates to be informed of the case;
 - (b) if the court does not make such an order it shall cause the local authority in whose area it appears to the court that the relevant infant resides to be informed of the case, and it shall be the duty of that authority to give effect to the direction within twenty-one days.
- (12) The relevant infant [F12or, in a case where a parent or guardian of his was a party to the care proceedings by virtue of an order under section 32A of this Act, the parent or guardian] may appeal to [F13the Crown court] against any order made in respect of [F14the relevant infant] under the preceding section except such an order as is mentioned in subsection (3)(a) of that section.
- (13) Such an order as is mentioned in subsection (3)(a) of the preceding section shall not require the parent or guardian in question to enter into a recognisance for an amount exceeding [F15£1,000] or for a period exceeding three years or, where the relevant infant will attain the age of eighteen in a period shorter than three years, for a period exceeding that shorter period; and [F16section 120 of the M9Magistrates' Courts Act 1980] (which relates to the forfeiture of recognisances) shall apply to a recognisance entered into in pursuance of such an order as it applies to a recognisance to keep the peace.
- (14) For the purposes of this Act, care proceedings in respect of a relevant infant are begun when he is first brought before a juvenile court in pursuance of the preceding section in connection with the matter to which the proceedings relate.]

Textual Amendments

- F6** Ss. 1–3 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F7** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(2), **Sch. 7 para. 78(a)**
- F8** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(2), **Sch. 7 para. 78(b)**
- F9** Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 8 para. 5**
- F10** Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **Sch. 3 para. 44**
- F11** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 26(c)**
- F12** Words inserted by Children and Young Persons (Amendment) Act 1986 (c. 28, SIF 20), **ss. 2(1), 6**
- F13** Words substituted by virtue of Courts Act 1971 (c. 23, SIF 37), s. 56(2), **Sch. 9 Pt. I**
- F14** Words substituted by Children and Young Persons (Amendment) Act 1986 (c. 28, SIF 20), **ss. 2(1), 6**
- F15** Words substituted by S.I. 1984/447, **Sch. 1**

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F16 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154(2), [Sch. 7 para. 78\(c\)](#)

Modifications etc. (not altering text)

C2 S. 2(11) restricted by [S.I. 1988/913](#), [rules 13\(1\)](#), 27(1)

C3 Power to amend s. 2(13) conferred by [Magistrate's Courts Act 1980 \(c. 43, SIF 82\)](#), [s. 143\(2\)\(i\)](#) (as added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 48\(1\)\(b\)](#))

Marginal Citations

M4 [1980 c. 43\(82\)](#).

M5 [1980 c. 43\(82\)](#).

M6 [1944 c. 31\(41:1\)](#).

M7 [1980 c. 43\(82\)](#).

M8 [1983 c. 20\(85\)](#).

M9 [1980 c. 43\(82\)](#).

[^{F17}3 Further supplementary provisions relating to s. 1(2)(f)

- (1) In any care proceedings, no account shall be taken for the purposes of the condition set out in paragraph (f) of subsection (2) of section 1 of this Act (hereafter in this section referred to as “the offence condition”) of an offence alleged to have been committed by the relevant infant if—
 - (a) in any previous care proceedings in respect of him it was alleged that the offence condition was satisfied in consequence of the offence; or
 - (b) the offence is a summary offence. . . ^{F18} and, disregarding section 4 of this Act, the period for beginning summary proceedings in respect of it expired before the care proceedings were begun; or
 - (c) disregarding section 4 of this Act, he would if charged with the offence be entitled to be discharged under any rule of law relating to previous acquittal or conviction.
- (2) In any care proceedings the court shall not entertain an allegation that the offence condition is satisfied in respect of the relevant infant unless the proceedings are brought by a local authority or a constable [^{F19}and, in the case of proceedings brought by a constable, the Director of Public Prosecutions has consented to the allegation being made]; but nothing in this or the preceding subsection shall prevent any evidence from being considered in care proceedings for any purpose other than that of determining whether the offence condition is satisfied in respect of the relevant infant.
- (3) If in any care proceedings the relevant infant is alleged to have committed an offence in consequence of which the offence condition is satisfied with respect to him, the court shall not find the offence condition satisfied in consequence of the offence unless, disregarding section 4 of this Act, it would have found him guilty of the offence if the proceedings had been in pursuance of an information duly charging him with the offence and the court had had jurisdiction to try the information; and without prejudice to the preceding provisions of this subsection the same proof shall be required to substantiate or refute an allegation that the offence condition is satisfied in consequence of an offence as is required to warrant a finding of guilty, or as the case may be, of not guilty of the offence.
- (4) A person shall not be charged with an offence if in care proceedings previously brought in respect of him it was alleged that the offence condition was satisfied in consequence of that offence.

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- (5) If in any care proceedings in which it is alleged that the offence condition is satisfied in respect of the relevant infant it appears to the court that the case falls to be remitted to another court in pursuance of subsection (11) of the preceding section but that it is appropriate to determine whether the condition is satisfied before remitting the case, the court may determine accordingly; and any determination under this subsection shall be binding on the court to which the case is remitted.
- [Where in any care proceedings the court finds the offence condition satisfied with ^{F20}(6) respect to the relevant infant, then, whether or not the court makes an order under section 1 of this Act—
- (a) section 35 of the ^{M10}Powers of Criminal Courts Act 1973 (which relates to compensation for personal injury and loss of or damage to property) shall apply as if the finding were a finding of guilty of the offence; and
 - (b) it shall be the duty of the court, subject to subsections (6A) and (6B) of this section, to order that any sum awarded by virtue of this section be paid by the relevant infant’s parent or guardian instead of by the relevant infant, unless the court is satisfied—
 - (i) that the parent or guardian cannot be found; or
 - (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.
- (6A) An order shall not be made in pursuance of the preceding subsection unless the parent or guardian has been given an opportunity of being heard or has been required to attend the proceedings and failed to do so.
- (6B) where the finding that the offence condition is satisfied is made in pursuance of subsection (5) of this section, the powers conferred by subsection (6) of this section shall be exercisable by the court to which the case is remitted instead of by the court which made the finding.]
- (7) Where in any care proceedings the court finds the offence condition satisfied with respect to the relevant infant and he is a young person, the court may if it thinks fit and he consents, instead of making such an order as is mentioned in section 1(3) of this Act, order him to enter into a recognisance for an amount not exceeding [^{F21}£50] and for a period not exceeding one year to keep the peace or to be of good behaviour; and such an order shall be deemed to be an order under section 1 of this Act but no appeal to [^{F22}the Crown court] may be brought against an order under this subsection.
- (8) Where in any care proceedings the court finds the offence condition satisfied with respect to the relevant infant in consequence of an offence which was not admitted by him before the court, then—
- (a) if the finding is made in pursuance of subsection (5) of this section and the court to which the case is remitted decides not to make any order under section 1 of this Act in respect of the relevant infant; or
 - (b) if the finding is not made in pursuance of that subsection and the court decides as aforesaid,
- the relevant infant may appeal to [^{F23}the Crown court] against the finding, and in a case falling within paragraph (a) of this subsection any notice of appeal shall be given within [^{F24}twenty-one days] after the date of the decision mentioned in that paragraph; and a person ordered to pay compensation by virtue of subsection (6) of this section may appeal to [^{F23}the Crown court] against the order.
- (9) [^{F25}]

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Textual Amendments

- F17** Ss. 1–3 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F18** Words repealed by Criminal Law Act 1977 (c. 45, SIF 39:1), **Sch. 13**
- F19** Words inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 27**
- F20** S. 3(6)(6A)(6B) substituted for s. 3(6) by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 27**
- F21** Words substituted by Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 58(3)**
- F22** Words substituted by Courts Act 1971 (c. 23, SIF 37), **Sch. 8 para. 59(1)**
- F23** Words substituted by virtue of Courts Act 1971 (c. 23, SIF 37), s. 56(2), **Sch. 9 Pt. I**
- F24** Words substituted by S.I. 1982/1109, **Sch. 3 Pt. II para. 6**
- F25** S. 3(9) repealed by Courts Act 1971 (c. 23, SIF 37), **Sch. 11 Pt IV**

Marginal Citations

- M10** 1973 c. 62(39:1).

Consequential changes in criminal proceedings etc.

4 Prohibition of criminal proceedings for offences by children.

A person shall not be charged with an offence, except homicide, by reason of anything done or omitted while he was a child.

5 Restrictions on criminal proceedings for offences by young persons.

- (1) A person other than a qualified informant shall not lay an information in respect of an offence if the alleged offender is a young person.
- (2) A qualified informant shall not lay an information in respect of an offence if the alleged offender is a young person unless the informant is of opinion that the case is of a description prescribed in pursuance of subsection (4) of this section and that it would not be adequate for the case to be dealt with by a parent, teacher or other person or by means of a caution from a constable or through an exercise of the powers of a local authority or other body not involving court proceedings or by means of proceedings under ^{F26}section 1 of this Act^{F26}Part IV of the Children Act 1989].
- (3) A qualified informant shall not come to a decision in pursuance of the preceding subsection to lay an information unless—
 - (a) he has told the appropriate local authority that the laying of the information is being considered and has asked for any observations which the authority may wish to make on the case to the informant; and
 - (b) the authority either have notified the informant that they do not wish to make such observations or have not made any during the period or extended period indicated by the informant as that which in the circumstances he considers reasonable for the purpose or the informant has considered the observations made by the authority during that period;

but the informant shall be entitled to disregard the foregoing provisions of this subsection in any case in which it appears to him that the requirements of the preceding subsection are satisfied and will continue to be satisfied notwithstanding any observations which might be made in pursuance of this subsection.

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- (4) The Secretary of State may make regulations specifying, by reference to such considerations as he thinks fit, the descriptions of cases in which a qualified informant may lay an information in respect of an offence if the alleged offender is a young person; but no regulations shall be made under this subsection unless a draft of the regulations has been approved by a resolution of each House of Parliament.
- (5) An information laid by a qualified informant in a case where the informant has reason to believe that the alleged offender is a young person shall be in writing and shall—
- (a) state the alleged offender’s age to the best of the informant’s knowledge; and
 - (b) contain a certificate signed by the informant stating that the requirements of subsections (2) and (3) of this section are satisfied with respect to the case or that the case is one in which the requirements of the said subsection (2) are satisfied and the informant is entitled to disregard the requirements of the said subsection (3).
- (6) If at the time when justices begin to inquire into a case, either as examining justices or on the trial of an information, they have reason to believe that the alleged offender is a young person and either—
- (a) it appears to them that the person who laid the information in question was not a qualified informant when he laid it; or
 - (b) the information is not in writing or does not contain such a certificate as is mentioned in subsection (5)(b) of this section,
- it shall be their duty to quash the information, without prejudice to the laying of a further information in respect of the matter in question; but no proceedings shall be invalidated by reason of a contravention of any provision of this section and no action shall lie, by reason only of such a contravention, in respect of proceedings in respect of which such a contravention has occurred.
- (7) Nothing in the preceding provisions of this section applies to an information laid with the consent of the Attorney General or laid by or on behalf or with the consent of the Director of Public Prosecutions.
- (8) It shall be the duty of a person who decides to lay an information in respect of an offence in a case where he has reason to believe that the alleged offender is a young person to give notice of the decision to the appropriate local authority unless he is himself that authority.
- (9) In this section—

“the appropriate local authority”, in relation to a young person, means the local authority for the area in which it appears to the informant in question that the young person resides or, if the young person appears to the informant not to reside in the area of a local authority, the local authority in whose area it is alleged that the relevant offence or one of the relevant offences was committed; and

“qualified informant” means a servant of the Crown, a police officer and a member of designated police force acting in his capacity as such a servant, officer or member, a local authority, the Greater London Council, the council of a [^{F27}district] and any body designated as a public body for the purposes of this section;

and in this subsection “designated” means designated by an order made by the Secretary of State; but nothing in this section shall be construed as preventing any council or other body from acting by an agent for the purposes of this section.

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Textual Amendments

- F26** Words “Part IV of the Children Act 1989” substituted (*prosp.*) for words “section 1 of this Act” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 20, **Sch. 14 para. 1(1)**
- F27** Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

6 **F28**

Textual Amendments

- F28** S. 6 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(2), **Sch. 9**

7 Alterations in treatment of young offenders etc.

- (1) **F29**
- (2) **F30**
- (3) **F31**

(5) An order sending a person to an approved school shall not be made after such day as the Secretary of State may by order specify for the purposes of this subsection.

^{XI}(6) Sections 54 and 57 of the Act of 1933 (which among other things enables a child or young person found guilty of an offence to be sent to a remand home or committed to the care of a fit person) shall cease to have effect.

(7) Subject [^{F32}to subsection (7A) of this section and] to the enactments requiring cases to be remitted to juvenile courts and to section 53(1) of the Act of 1933 (which provides for detention for certain crimes), where a child is found guilty of homicide or a young person is found guilty of any offence by or before any court, that court or the court to which his case is remitted shall have power—

- [^{F33}(a) if the offence is punishable in the case of an adult with imprisonment, to make a care order (other than an interim order) in respect of him; or]
- (b) to make a supervision order in respect of him; or
- (c) with the consent of his parent or guardian, to order the parent or guardian to enter into a recognisance to take proper care of him and exercise proper control over him,

and, if it makes such an order as is mentioned in this subsection while another such order made by any court is in force in respect of the child or young person, shall also have power to discharge the earlier order; [^{F34}and subsection (13) of section 2 of this Act shall apply to an order under paragraph (c) of this subsection as it applies to such an order as is mentioned in that subsection.]

[^{F35}(7A) A court shall not make a care order under subsection (7) of this section in respect of a child or young person unless it is of opinion—

- (a) that a care order is appropriate because of the seriousness of the offence; and
- (b) that the child or young person is in need of care or control which he is unlikely to receive unless the court makes a care order.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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- [^{F36}(7B) An order under subsection (7)(c) of this section shall not require a person to enter into a recognisance—
- (a) for an amount exceeding £1,000; or
 - (b) for a period exceeding—
 - (i) three years; or
 - (ii) where the young person concerned will attain the age of eighteen in a period shorter than three years, that shorter period.
- (7C) Section 120 of the Magistrates' Courts Act 1980 shall apply to a recognisance entered into in pursuance of an order under subsection (7)(c) of this section as it applies to a recognisance to keep the peace.]
- (8) Without prejudice to the power to remit any case to a juvenile court which is conferred on a magistrates' court other than a juvenile court by section 56(1) of the Act of 1933, in a case where such a magistrates' court finds a person guilty of an offence and either he is a young person or was a young person when the proceedings in question were begun it shall be the duty of the court to exercise that power unless the court [^{F37}is of the opinion that the case is one which can properly be dealt with by means of—
- (a) an order discharging him absolutely or conditionally; or
 - (b) an order for the payment of a fine; or
 - (c) an order requiring his parent or guardian to enter into a recognisance to take proper care of him and exercise proper control over him,
- with or without any other order that the court has power to make when absolutely or conditionally discharging an offender.]

Editorial Information

- X1** The text of s. 7(6) 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.

Textual Amendments

- F29** S. 7(1) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**
- F30** S. 7(2) repealed by Powers of Criminal Courts Act 1973 (c. 62, SIF 39:1), **Sch. 6**
- F31** S. 7(3)(4) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**
- F32** Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 23(a)** and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F33** S. 7(7)(a) repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), 36(3)(a), **Sch. 15**
- F34** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), **Sch. 14 para 27(4) Sch. 15**
- F35** S. 7(7A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 23(b)** and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F36** S. 7(7B)(7C) inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 21, **Sch. 14 para. 1(1)**
- F37** Words substituted by Criminal Justice Act 1972 (c. 71, SIF 39:1), **Sch. 5**

Modifications etc. (not altering text)

- C4** 31.12.1970 specified for purposes of s. 7(5) by S.I. 1970/1499, **art. 2**

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[^{F38}7A Legal representation.

- (1) A court shall not make a care order under section 7(7) of this Act in respect of a child or young person who is not legally represented in that court unless either—
 - (a) he applied for legal aid and the application was refused on the ground that it did not appear that his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (2) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before a care order is made, and in this section “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to the making of the care order; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.]

Textual Amendments

F38 S. 7A inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 24 and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), Sch. 15

8 Fingerprinting of suspected young persons.

- (1) If a police officer not below the rank of inspector makes an application on oath to a justice stating—
 - (a) that there is evidence sufficient to justify the laying of an information that a young person has or is suspected of having committed an offence punishable with imprisonment in the case of an adult; and
 - (b) that with a view to deciding, in accordance with section 5 of this Act, whether the information should be laid it is appropriate in the opinion of the officer for an order under subsection (2) of this section to be made in respect of the young person,

the justice may if he thinks fit issue a summons or warrant for the purpose of securing the attendance of the young person before a magistrates’ court with a view to the making of such an order in respect of him.
- (2) The court before which a young person appears in pursuance of a summons or warrant under the preceding subsection may if it thinks fit order his finger and palm prints to be taken by a constable.
- (3) [^{F39}Subsections (2) and (4) of section 49 of the ^{M11}Magistrates’ Court Act 1980] (which respectively relate to the taking and destruction of finger and palm prints) shall have effect as if references to an order under that section included references to an order under the preceding subsection and, in relation to an order under the preceding subsection, as if for the words from “remanded” to “committed” in subsection (2) there were substituted the words “lawfully detained at any place, at that place”^{F40}. . .

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Textual Amendments

- F39** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154(2), [Sch. 7 para. 80](#)
- F40** Words in s. 8(3) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6)(7), [Sch.15](#), (with Sch. 14 paras. 1(1), 27(4)); [S.I. 1991/828](#), [art. 3\(2\)](#)

Marginal Citations

- M11** [1980 c. 43\(82\)](#).

8 Fingerprinting of suspected young persons. **E+W**

- (1) If a police officer not below the rank of inspector makes an application on oath to a justice stating—
- that there is evidence sufficient to justify the laying of an information that a young person has or is suspected of having committed an offence punishable with imprisonment in the case of an adult; and
 - that with a view to deciding, in accordance with section 5 of this Act, whether the information should be laid it is appropriate in the opinion of the officer for an order under subsection (2) of this section to be made in respect of the young person,
- the justice may if he thinks fit issue a summons or warrant for the purpose of securing the attendance of the young person before a magistrates' court with a view to the making of such an order in respect of him.
- (2) The court before which a young person appears in pursuance of a summons or warrant under the preceding subsection may if it thinks fit order his finger and palm prints to be taken by a constable.
- (3) [^{F207}Subsections (2) and (4) of section 49 of the ^{M47}Magistrates' Court Act 1980] (which respectively relate to the taking and destruction of finger and palm prints) shall have effect as if references to an order under that section included references to an order under the preceding subsection and, in relation to an order under the preceding subsection, as if for the words from "remanded" to "committed" in subsection (2) there were substituted the words "lawfully detained at any place, at that place"^{F208} and as if the reference to acquittal in subsection (4) included a reference to a finding of a court that the condition set out in section 1(2)(f) of this Act is not satisfied in consequence of the offence specified in the application mentioned in subsection (1) of this section.]

Textual Amendments

- F207** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154(2), [Sch. 7 para. 80](#)
- F208** Words repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(6)(7), Sch. 14 para. 27(4), [Sch. 15](#)

Marginal Citations

- M47** [1980 c. 43\(82\)](#).

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9 Investigations by local authorities.

- (1) Where a local authority or a local education authority bring [^{F41}proceedings under section 1 of this Act or] proceedings for an offence alleged to have been committed by a young person or are notified that any such proceedings are being brought, it shall be the duty of the authority, unless they are of opinion that it is unnecessary to do so, to make such investigations and provide the court before which the proceedings are heard with such information relating to the home surroundings, school record, health and character of the person in respect of whom the proceedings are brought as appear to the authority likely to assist the court.
- (2) If the court mentioned in subsection (1) of this section requests the authority aforesaid to make investigations and provide information or to make further investigations and provide further information 4 relating to the matters aforesaid, it shall be the duty of the authority to comply with the request.

Textual Amendments

F41 Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), Sch. 15

10 Further limitations on publication of particulars of children and young persons etc.

- (1) In subsection (1) of section 49 of the Act of 1933 (which among other things imposes restrictions on reports of certain court proceedings concerning children or young persons but authorises the court or the Secretary of State, if satisfied that it is in the interests of justice to do so, to dispense with the requirements of that section)—
 - (a) the references to a young person concerned in the proceedings as the person in respect of whom they are taken shall be construed as including references to any person who has attained the age of seventeen but not eighteen and against or in respect of whom the proceedings are taken and, in the case of proceedings under Part I of this Act, any other person in respect of whom those proceedings are taken; and
 - (b) the references to a juvenile court shall, in relation to proceedings in pursuance of the provisions of sections 15 and 16 of this Act or on appeal from such proceedings, be construed as including a reference to any other magistrates’ court or, as the case may be, the court in which the appeal is brought; and
 - (c) for the words “in the interests of justice so to do” there shall be substituted words “appropriate to do so for the purpose of avoiding injustice to a child or young person” and after the word “section” there shall be inserted the words “in relation to him”.
- (2) Where by virtue of paragraph (b) of the preceding subsection the said section 49 applies to any proceedings, it shall be the duty of the court in which the proceedings are taken to announce in the course of the proceedings that that section applies to them; and if the court fails to do so that section shall not apply to the proceedings in question.
- (3) ^{F42}

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Textual Amendments

F42 S. 10(3) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154(2), [Sch. 9](#)

Supervision

11 Supervision orders.

Any provision of this Act authorising a court to make a supervision order in respect of any person shall be construed as authorising the court to make an order placing him under the supervision of a local authority designated by the order or of a probation officer; and in this Act “supervision order” shall be construed accordingly and “supervised person” and “supervisor”, in relation to a supervision order, mean respectively the person placed or to be placed under supervision by the order and the person under whose supervision he is placed or to be placed by the order.

Modifications etc. (not altering text)

C5 S. 11 extended (S.) by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 189(4)

[^{F43}11A Local authority functions under certain supervision orders.

The Secretary of State may make regulations with respect to the exercise by a local authority of their functions in a case where a person has been placed under their supervision by an order made under section 1(3)(b) or 21(2) of this Act.]

Textual Amendments

F43 S. 11A inserted by [Children Act 1975 \(c. 72, SIF 49:9\)](#), [Sch. 3 para. 68](#) and repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(6)(7), [Sch. 14 para. 27\(4\)](#), [Sch. 15](#)

[^{F44}12 Power to include requirements in supervision orders.

- (1) A supervision order may require the supervised person to reside with an individual named in the order who agrees to the requirement, but a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by the following provisions of this section or by section 12A, 12B or 12C below.
- (2) Subject to section 19(12) of this Act, a supervision order may require the supervised person to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things—
 - (a) to live at a place or places specified in the directions for a period or periods so specified;
 - (b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;
 - (c) to participate in activities specified in the directions on a day or days so specified;

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but it shall be for the supervisor to decide whether and to what extent he exercises any power to give directions conferred on him by virtue of this subsection and to decide the form of any directions; and a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by section 12B(1) of this Act.

- (3) The total number of days in respect of which a supervised person may be required to comply with directions given by virtue of paragraph (a), (b) or (c) of subsection (2) above in pursuance of a supervision order shall not exceed 90 or such lesser number, if any, as the order may specify for the purposes of this subsection; and for the purpose of calculating the total number of days in respect of which such directions may be given the supervisor shall be entitled to disregard any day in respect of which directions were previously given in pursuance of the order and on which the directions were not complied with.]

Textual Amendments

F44 Ss. 12–12D substituted for s. 12 by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, [Sch. 10 Pt. I](#)

[^{F45}12A Young offenders.

[Subject to subsection (2) of this section, this subsection applies to—

- ^{F46X2}(1) (a) any supervision order made under section 7(7) of this Act in respect of a child or young person found guilty as there mentioned; and
- (b) any supervision order made in respect of a person under section 21(2) of this Act by a court on discharging a care order made in respect of him under the said section 7(7).
- (2) Subsection (1) of this section does not apply to any supervision order which by virtue of section 12(2) above requires the supervised person to comply with directions given by the supervisor.]

[This subsection applies to any supervision order made under section 7(7) of this

- ^{F46X2}(1) Act unless it requires the supervised person to comply with directions given by the supervisor under section 12(2) of this Act.]

- (3) Subject to the following provisions of this section and to section 19(13) of this Act, a supervision order to which subsection (1) of this section applies may require a supervised person—
- (a) to do anything that by virtue of section 12(2) of this Act a supervisor has power, or would but for section 19(12) of this Act have power, to direct a supervised person to do;
- (b) to remain for specified periods between 6 p.m. and 6 a.m.—
- (i) at a place specified in the order; or
- (ii) at one of several places so specified;
- (c) to refrain from participating in activities specified in the order—
- (i) on a specified day or days during the period for which the supervision order is in force; or
- (ii) during the whole of that period or a specified portion of it.

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- (4) Any power to include a requirement in a supervision order which is exercisable in relation to a person by virtue of this section or the following provisions of this Act may be exercised in relation to him whether or not any other such power is exercised.
- (5) The total number of days in respect of which a supervised person may be subject to requirements imposed by virtue of subsection (3)(a) or (b) above shall not exceed 90.
- (6) The court may not include requirements under subsection (3) above in a supervision order unless—
 - (a) it has first consulted the supervisor as to—
 - (i) the offender’s circumstances; and
 - (ii) the feasibility of securing compliance with the requirements,and is satisfied, having regard to the supervisor’s report, that it is feasible to secure compliance with them;
 - (b) having regard to the circumstances of the case, it considers the requirements necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences; and
 - (c) the supervised person or, if he is a child, his parent or guardian, consents to their inclusion.
- (7) The court shall not include in such an order by virtue of subsection (3) above—
 - (a) any requirement that would involve the co-operation of a person other than the supervisor and the supervised person unless that other person consents to its inclusion; or
 - (b) any requirement requiring the supervised person to reside with a specified individual; or
 - (c) any such requirement as is mentioned in section 12B(1) of this Act.
- (8) The place, or one of the places, specified in a requirement under subsection (3)(b) above (“a night restriction”) shall be the place where the supervised person lives.
- (9) A night restriction shall not require the supervised person to remain at a place for longer than 10 hours on any one night.
- (10) A night restriction shall not be imposed in respect of any day which falls outside the period of three months beginning with the date when the supervision order is made.
- (11) A night restriction shall not be imposed in respect of more than 30 days in all.
- (12) A supervised person who is required by a night restriction to remain at a place may leave it if he is accompanied—
 - (a) by his parent or guardian;
 - (b) by his supervisor; or
 - (c) by some other person specified in the supervision order.
- (13) A night restriction imposed in respect of a period of time beginning in the evening and ending in the morning shall be treated as imposed only in respect of the day upon which the period begins.]

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Editorial Information

X2 S. 12A(1) commencing “This subsection” substituted (*prosp.*) for subsections (1) (commencing “Subject to subsection (2)”) and (2) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 22, Sch. 14 para. 1(1)

Textual Amendments

F45 Ss. 12–12D substituted for s. 12 by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, Sch. 10 Pt. I

F46 S. 12A(1) commencing “This subsection” substituted (*prosp.*) for subsections (1) (commencing “Subject to subsection (2)”) and (2) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 22, Sch. 14 para. 1(1)

[^{F47}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;
 - [that order imposed—
 - ^{F48}(b) (i) a requirement under section 12, 12A or 12C of this Act; or
 - (ii) a residence requirement;
 - (c) he fails to comply with that requirement, or is found guilty of an offence committed while that order was in force; and
 - (d) the court is satisfied that—
 - (i) the failure to comply with the requirement, or the behaviour which constituted the offence, was due to a significant extent to the circumstances in which he was living; and
 - (ii) the imposition of a residence requirement will assist in his rehabilitation;]

except that [^{F49}sub-paragraph (i) of paragraph (d)] of this subsection does not apply where the condition in paragraph (b)(ii) is satisfied.

^{F50}(7)

^{F50}(8)

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(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—

- [he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of those proceedings but the right was withdrawn because of his conduct; or]
- ^{F51}(a) he has been informed of his right to apply for [^{F52}such representation]for the purposes of the proceedings and has had the opportunity to do so, but nevertheless refused or failed to apply.
- (b) he has been informed of his right to apply for [^{F52}such representation]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.

^{F50}(12)]

Textual Amendments

- F47** S. 12AA inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4)(6), **Sch. 12 para. 23**, (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F48** S. 12AA(6)(b)(c)(d) substituted (1.4.1999) by 1998 c. 37, **s. 71(4)**; S.I. 1998/3263, **art. 5(e)**.
- F49** Words in s. 12AA(6) substituted (1.4.1999) by 1998 c. 37, **s. 71(4)**; S.I. 1998/3263, **art. 5(e)**.
- F50** S. 12AA(7)(8)(12) 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**
- F51** S. 12AA(9)(a) substituted (*prosp.*) by 1999 c. 22, ss. 24, 108(1), Sch. 4 paras. 4, 5 (with s. 107, **Sch. 14 para. 7(2)**)
- F52** Words in s. 12AA(9)(b) substituted (*prosp.*) by 1999 c. 22, ss. 24, 108(1), Sch. 4 paras. 4, 5 (with s. 107, **Sch. 14 para. 7(2)**)

[^{F209}12A Requirement for young offender to live in local authority accommodation. **E**

+W

- (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.

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- (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.
- (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 ^{M48}Criminal Justice Act 1982.]

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Textual Amendments

F209 S. 12AA inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 23, Sch. 14 para. 1(1)

Marginal Citations

M48 1982 c. 48 (39:1).

[^{F53}12B Requirements as to mental treatment.

- (1) Where a court which proposes to make a supervision order is satisfied, on the evidence of a medical practitioner approved for the purposes of section 12 of the Mental Health Act 1983, that the mental condition of a supervised person is such as requires and may be susceptible to treatment but is not such as to warrant his detention in pursuance of a hospital order under Part III of that Act, the court may include in the supervision order a requirement that the supervised person shall, for a period specified in the order, submit to treatment of one of the following descriptions so specified, that is to say—
 - (a) treatment by or under the direction of a fully registered medical practitioner specified in the order;
 - (b) treatment as a non-resident patient at a place specified in the order; or
 - (c) treatment as a resident patient in a hospital or mental nursing home within the meaning of the said Act of 1983, but not a special hospital within the meaning of that Act.
- (2) A requirement shall not be included in a supervision order in pursuance of subsection (1) above—
 - (a) in any case, unless the court is satisfied that arrangements have been or can be made for the treatment in question and, in the case of treatment as a resident patient, for the reception of the patient;
 - (b) in the case of an order made or to be made in respect of a person who has attained the age of 14, unless he consents to its inclusion;and a requirement so included shall not in any case continue in force after the supervised person becomes 18.]

Textual Amendments

F53 Ss. 12–12D substituted for s. 12 by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, Sch. 10 Pt. I

[^{F54}12C Requirements as to education.

- (1) Subject to subsection (3) below, a supervision order to which section 12A(1) of this Act applies may require a supervised person, if he is of compulsory school age, to comply, for as long as he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority.
- (2) The Court shall not include such a requirement in a supervision order unless it has consulted the local education authority with regard to its proposal to include the requirement and is satisfied that in the view of the local education authority arrangements exist for the child or young person to whom the supervision order will

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relate to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational need he may have.

- (3) Expressions used in subsection (1) above and in the Education Act ^{M12}1944 have the same meaning there as in that Act.
- (4) The court may not include a requirement under subsection (1) above unless it has first consulted the supervisor as to the offender's circumstances and, having regard to the circumstances of the case, it considers the requirement necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences.]

Textual Amendments

F54 Ss. 12–12D substituted for s. 12 by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, **Sch. 10 Pt. I**

Marginal Citations

M12 1944 c. 31(41:1).

[^{F55}12D Duty of court to state in certain cases that requirement in place of custodial sentence.

- (1) Where—
 - (a) in pursuance of section 12A(3)(a) of this Act a court includes a requirement in a supervision order directing the supervised person to participate in specified activities; and
 - (b) it would have imposed a custodial sentence if it had not made a supervision order including such a requirement,
 it shall state in open court—
 - (i) that it is making the order instead of a custodial sentence;
 - (ii) that it is satisfied that—
 - (a) the offender has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to any non-custodial penalty other than a supervision order including such a requirement; or
 - (b) only a supervision order including such a requirement or a custodial sentence would be adequate to protect the public from serious harm from him; or
 - (c) the offence for which he has been convicted or found guilty was so serious that a non-custodial sentence for it other than a supervision order including such a requirement could not be justified; and
 - (iii) why it is so satisfied.
- (2) Where the Crown Court makes such a statement, it shall certify in the supervision order that it has made such a statement.
- (3) Where a magistrates' court makes such a statement, it shall certify in the supervision order that it has made such a statement and shall cause the statement to be entered in the register.]

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Textual Amendments

F55 Ss. 12–12D substituted for s. 12 by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, [Sch. 10 Pt. I](#)

13 Selection of supervisor.

- (1) A court shall not designate a local authority as the supervisor by a provision of a supervision order unless the authority agree or it appears to the court that the supervised person resides or will reside in the area of the authority.
- (2) A court shall not insert in a supervision order a provision placing a child under the supervision of a probation officer unless the local authority of which the area is named or to be named in the order in pursuance of section 18(2)(a) of this Act so request and a probation officer is already exercising or has exercised, in relation to another member of the household to which the child belongs, duties imposed [^{F56}on probation officers by paragraph 8 of Schedule 3 to the ^{M13}Powers of Criminal Courts Act 1973 or by rules under paragraph 18(1)(b)] of that Schedule.
- (3) Where a provision of a supervision order places a person under the supervision of a probation officer, the supervisor shall be a probation officer appointed for or assigned to the petty sessions area named in the order in pursuance of section 18(2)(a) of this Act and selected under arrangements made by the [^{F57}probation committee]; but if the probation officer selected as aforesaid dies or is unable to carry out his duties. . . ^{F58}, another probation officer shall be selected as aforesaid for the purposes of the order.

Textual Amendments

F56 Words substituted by [Powers of Criminal Courts Act 1973 \(c. 62, SIF 39:1\)](#), [Sch. 5 para. 35](#)

F57 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 65(1)

F58 Words repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [Sch. 13](#)

Marginal Citations

M13 1973 c. 62(39:1).

14 Duty of supervisor.

While a supervision order is in force it shall be the duty of the supervisor to advise, assist and befriend the supervised person.

[^{F59}14A Refusal to allow supervisor to visit child or young person.

Where a supervision order has been made in a case where a condition set out in paragraph (a), (b), (bb) or (c) of section 1(2) above is satisfied, a refusal to comply with a requirement imposed under section 18(2)(b) below—

- (a) that the supervisor of a child or young person shall visit him; or
- (b) that a child or young person shall be medically examined,

shall be treated for the purposes of section 40 of the ^{M14}Children and Young Persons Act 1933 (under which a warrant authorising the search for and removal of a child or young person may be issued on suspicion of unnecessary suffering caused to, or

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certain offences committed against, the child or young person) as giving reasonable cause for such suspicion.]

Textual Amendments

F59 S. 14A inserted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 2 para.11](#) and repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(6)(7), [Sch. 14 para. 27\(4\)](#), [Sch. 15](#)

Marginal Citations

M14 [1933 c. 12\(20\)](#).

15 Variation and discharge of supervision orders.

(1) If while a supervision order is in force in respect of a supervised person who has not attained the age of eighteen it appears to a juvenile court, on the application of the supervisor or the supervised person, that it is appropriate to make an order under this subsection, the court may make an order discharging the supervision order or varying it by—

- (a) cancelling any requirement included in it in pursuance of section 12 ^[F60], 12A, ^[F61]12AA] 12B or 12C] or section 18(2)(b) of this Act; or
- (b) inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the order if the court had then had power to make it and were exercising the power,

^[F62]and may on discharging the supervision order make a care order (other than an interim order) in respect of the supervised person]; but the powers of variation conferred by this subsection do not include power to insert in the supervision order, after the expiration of ^[F63]three months beginning with the date when the order was originally made], a requirement in pursuance of ^[F64]section 12B(1)] of this Act, unless. . . ^{F65} it is in substitution for such a requirement already included in the order ^[F66]or power to insert in the supervision order a requirement in pursuance of ^[F64]section 12A(3)] (b) of this Act in respect of any day which falls outside the period of 3 months beginning with the date when the order was originally made.]

(2) If on an application in pursuance of the preceding subsection, in a case where the supervised person has attained the age of seventeen ^[F67]and the supervision order was not made by virtue of section 1 of this Act or on the occasion of the discharge of a care order], it appears to the court appropriate to do so it may proceed as if the application were in pursuance of subsection (3) or, if it is made by the supervisor, in pursuance of subsections (3) and (4) of this section and as if in that subsection or those subsections, as the case may be, the word “seventeen” were substituted for the word “eighteen” and the words “a magistrates’ court other than” were omitted.

^[F68](2A) If while a supervision order made under section 7(7) of this Act ^[F69]or made by a court on discharging a care order made under that subsection] is in force in respect of a person who has not attained the age of 18 it is proved to the satisfaction of a juvenile court, on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12, 12A ^[F70]12AA] 12C or 18(2)(b) of this Act, the court—

- (a) may order him to pay a fine of an amount not exceeding £100; or

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- (b) subject to section 16A(1) of this Act, may make an attendance centre order in respect of him,
whether or not it also makes an order under subsection (1) of this section.]
- (3) If while a supervision order is in force in respect of a supervised person who has attained the age of eighteen it appears to a magistrates' court other than a juvenile court, on the application of the supervisor or the supervised person, that it is appropriate to make an order under this subsection, the court may make an order discharging the supervision order or varying it by—
- (a) inserting in it a provision specifying the duration of the order or altering or cancelling such a provision already included in it; or
 - (b) substituting for the provisions of the order by which the supervisor is designated or by virtue of which he is selected such other provisions in that behalf as could have been included in the order if the court had then had power to make it and were exercising the power; or
 - (c) substituting for the name of an area included in the order in pursuance of section 18(2)(a) of this Act the name of any other area of a local authority or petty sessions area, as the case may be, in which it appears to the court that the supervised person resides or will reside; or
 - (d) cancelling any provision included in the order by virtue of section 18(2)(b) of this Act or inserting in it any provision prescribed for the purposes of that paragraph; or
 - (e) cancelling any requirement included in the order in pursuance of section [F71]12, 12A, [F72]12AA, 12B or 12C] of this Act.
- [F73](4) If while a supervision order made under section 7(7) of this Act [F74] or made by a court on discharging a care order made under that section] is in force in respect of a person who has attained the age of 18 it is proved to the satisfaction of a magistrates' court [F75] (not being a juvenile court) [F75] other than a juvenile court], on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12, 12A [F76]12AA] 12C or 18(2)(b) of this Act, the court—
- (a) whether or not it also makes an order under subsection (3) of this section, may order him to pay a fine of an amount not exceeding £100 or, subject to section 16A(1) of this Act, may make an attendance centre order in respect of him;
 - (b) if it also discharges the supervision order, may make an order imposing on him any punishment other than a sentence of detention in a young offender institution which it could have imposed on him if it had then had power to try him for the offence in consequence of which the supervision order was made and had convicted him in the exercise of that power;
- and in a case where the offence in question is of a kind which the court has no power to try or has no power to try without appropriate consents—
- (i) the punishment imposed by virtue of paragraph (b) of this subsection shall not exceed that which any court having power to try such an offence could have imposed in respect of it; and
 - (ii) if the punishment imposed is a fine, it shall not in any event exceed £2,000.
- (4A) If while a supervision order is in force in respect of a person it is proved to the court under subsection (2A) or (4) above that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12A(3)
- (a) of this Act directing the supervised person to participate in specified activities,

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the court may, if it also discharges the supervision order, make an order imposing on him any sentence which it could have imposed on him if it had then had power to try him for the offence in consequence of which the supervision order was made and had convicted him, or found him guilty, in the exercise of that power.

- (4B) In a case where the offence in question is of a kind which the court has no power to try or has no power to try without appropriate consents, the sentence imposed shall not exceed that which any court having power to try such an offence could have imposed in respect of it and shall not in any event exceed a custodial sentence for a term of six months and a fine—
- (a) if the offender has not attained the age of 18, of £400; and
 - (b) if he has attained that age, of £2,000.
- (4C) A court may not make an order by virtue of subsection (4A) of this section unless the court which made the supervision order made a statement under section 12D(1) of this Act.
- (4D) For the purposes of subsection (4C) above a certificate under section 12D of this Act shall be evidence of the making of the statement to which it relates.]
- (5) If a medical practitioner by whom or under whose direction a supervised person is being treated for his mental condition in pursuance of a requirement included in a supervision order by virtue of [F77 section 12B(1)] of this Act is unwilling to continue to treat or direct the treatment of the supervised person or is of opinion—
- (a) that the treatment should be continued beyond the period specified in that behalf in the order; or
 - (b) that the supervised person needs different treatment; or
 - (c) that he is not susceptible to treatment; or
 - (d) that he does not require further treatment,
- the practitioner shall make a report in writing to that effect to the supervisor; and on receiving a report under this subsection the supervisor shall refer it to a juvenile court, and on such a reference the court may make an order cancelling or varying the requirement.
- (6) The preceding provisions of this section shall have effect subject to the provisions of the following section.

Textual Amendments

- F60** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, [Sch. 10 Pt. II](#)
- F61** Words inserted (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(4)(6), [Sch. 12 para. 24\(1\)](#), [Sch. 14 para. 1\(1\)](#)
- F62** Words repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(6)(7), [Sch. 14 para. 27\(4\)](#), [36\(3\)\(b\)](#), [Sch. 15](#)
- F63** Words substituted, except in relation to supervision orders made before 17.7.1978, by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [Sch. 12](#)
- F64** References to “sections 12B(1)” and “section 12A(3)” substituted by virtue of [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, [Sch. 10 Pt. II](#)
- F65** Words repealed, except in relation to supervision orders made before 17.7.1978, by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [Sch. 13](#)
- F66** Words added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 14 para. 25](#)
- F67** Words repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(6)(7), [Sch. 14 para. 27\(4\)](#), [Sch. 15](#)

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- F68** S. 15(2A) substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. III para. 1** (s. 15(2A) originally inserted by Criminal Law Act 1977 (c. 45, SIF 39:1), s. **37(2)(3)** except in relation to supervision orders made before 17.7.1978)
- F69** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F70** Words inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 24(1), **Sch. 14 para. 1(1)**
- F71** Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. III para. 2**
- F72** Words inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 24(1), **Sch. 14 para. 1(1)**
- F73** S. 15(4)–(4D) substituted for s. 15(4) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. III para. 3**
- F74** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F75** Words “other than a juvenile court” substituted (*prosp.*) for words “(not being a juvenile court)” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 24(2), **Sch. 14 para. 1(1)**
- F76** Words inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 24(1), **Sch. 14 para. 1(1)**
- F77** Reference to “section 12B(1)” substituted by virtue of Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. II**

Modifications etc. (not altering text)

- C6** S. 15(1) amended (*prosp.*) by Children Act 1989 (c. 41, SIF 20), ss. 108(2)(6), 90(1)(b), **Sch. 14 para. 1(1)**
- C7** Power to amend s. 15(2A)(4) conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82) s. 143, Sch. 6A (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 5**)
- C8** S. 15(4) restricted (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. **189(5)(a)**, 390(5)(a)

16 Provisions supplementary to s. 15.

- (1) Where the supervisor makes an application or reference under the preceding section to a court he may bring the supervised person before the court, and subject to subsection (5) of this section a court shall not make an order under that section unless the supervised person is present before the court.
- (2) Without prejudice to any power to issue a summons or warrant apart from this subsection, a justice may issue a summons or warrant for the purpose of securing the attendance of a supervised person before the court to which any application or reference in respect of him is made under the preceding section; but [F78 subsections (3) and (4) of section 55 of the M15 Magistrates' Courts Act 1980] (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under this subsection as they apply to a warrant under that section and as if in subsection (3) after the word “summons” there were inserted the word “cannot be served or”.
- (3) Where the supervised person is arrested in pursuance of a warrant issued by virtue of the preceding subsection and cannot be brought immediately before the court referred to in that subsection, the person in whose custody he is—
 - (a) may make arrangements for his detention in a place of safety for a period of not more than seventy-two hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and

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- (b) shall within that period, unless within it the [^{F79}relevant infant][^{F79}supervised person] is brought before the court aforesaid, bring him before a justice;
- [^{F80}and the justice shall [^{F81}either direct that he be released forthwith or—
- (i) if he has not attained the age of eighteen, make an interim order in respect of him;
- (ii) if he has attained that age, remand him.]
- [direct that he be released forthwith; or
- ^{F81}(i)
- (ii) remand him.]]
- [^{F82}(3A) Where a supervised person is brought before a justice under subsection (3) of this section, the justice may—
- (a) direct that he be released forthwith; or
- (b) subject to subsection (3C) of this section, remand him to local authority accommodation.
- (3B) A justice who remands a person to local authority accommodation shall designate, as the authority who are to receive him, the authority named in the supervision order in respect of which the application or reference is being made.
- (3C) Where the supervised person has attained the age of eighteen at the time when he is brought before the justice, he shall not be remanded to local authority accommodation but may instead be remanded—
- (a) to a remand centre, if the justice has been notified that such a centre is available for the reception of persons under this subsection; or
- (b) to a prison, if he has not been so notified.]
- [^{F83X3}(4) If on an application to a court under subsection (1) of the preceding section—
- (a) the supervised person is brought before the court under a warrant issued or [^{F84}an interim order made by virtue of][^{F84}a remand under] the preceding provisions of this section; or
- (b) the court considers that it is likely to exercise its powers under that subsection to make an order in respect of the supervised person but, before deciding whether to do so, seeks information with respect to him which it considers is unlikely to be obtained unless the court [^{F85}makes an interim order in respect of][^{F85}remands] him,
- the court may [^{F86}make an interim order in respect of][^{F86}remand] the supervised person.]
- [^{F83X3}(4) Where an application is made to a court under section 15(1) of this Act, the court may remand (or further remand) the supervised person to local authority accommodation if—
- (a) a warrant has been issued under subsection (2) of this section for the purpose of securing the attendance of the supervised person before the court; or
- (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under section 15(1).]
- (5) A court may make an order under the preceding section in the absence of the supervised person if the effect of the order is confined to one or more of the following, that is to say—
- (a) discharging the supervision order;

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- (b) cancelling a provision included in the supervision order in pursuance of section 12 [^{F87}, 12A, [^{F88}12AA], 12B or 12C] or section 18(2)(b) of this Act;
 - (c) reducing the duration of the supervision order or any provision included in it in pursuance of the said section 12 [^{F87}, 12A, [^{F88}12AA], 12B or 12C];
 - (d) altering in the supervision order the name of any area;
 - (e) changing the supervisor.
- (6) A juvenile court shall not—
- (a) exercise its powers under subsection (1) of the preceding section to make [^{F89}a care order or] an order discharging a supervision order or inserting in it a requirement authorised by section 12 [^{F90}, 12A, [^{F91}12AA] 12B or 12C] of this Act or varying or cancelling such a requirement except in a case where the court is satisfied that the supervised person either is unlikely to receive the care or control he needs unless the court makes the order or is likely to receive it notwithstanding the order;
 - (b) exercise its powers to make an order under subsection (5) of the preceding section except in such a case as is mentioned in paragraph (a) of this subsection;
 - (c) exercise its powers under the said subsection (1) to make an order inserting a requirement authorised by [^{F92}section 12B(1)] of this Act in a supervision order which does not already contain such a requirement unless the court is satisfied as mentioned in the said [^{F92}section 12B(1)] on such evidence as is there mentioned.
- (7) Where the supervised person has attained the age of fourteen, then except with his consent a court shall not make an order under the preceding section containing provisions which insert in the supervision order a requirement authorised by [^{F92}section 12B(1)] of this Act or which alter such a requirement already included in the supervision order otherwise than by removing it or reducing its duration.
- (8) The supervised person [^{F93}or, in a case where a parent or guardian of his was a party to the proceedings on an application under the preceding section by virtue of an order under section 32A of this Act, the parent or guardian] may appeal to [^{F94}the Crown court] against—
- (a) any order made under the preceding section, except an order made or which could have been made in the absence of the supervised person and an order containing only provisions to which he consented in pursuance of the preceding subsection;
 - (b) the dismissal of an application under that section to discharge a supervision order.
- (9) Where an application under the preceding section for the discharge of a supervision order is dismissed, no further application for its discharge shall be made under that section by any person during the period of three months beginning with the date of the dismissal except with the consent of a court having jurisdiction to entertain such an application.
- (10) In [^{F95}paragraph (b) of subsection (2A) and] paragraph (a) of subsection (4) of the preceding section “attendance centre order” means such an order to attend an attendance centre as is mentioned in subsection (1) of section [^{F96}17 of the ^{M16}Criminal Justice Act 1982];. . . ^{F97}

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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- (11) In this and the preceding section references to a juvenile court or any other magistrates' court, in relation to a supervision order, are references to such a court acting for the petty sessions area for the time being named in the order in pursuance of section 18(2) (a) of this Act; and if while an application to a juvenile court in pursuance of the preceding section is pending the supervised person to whom it relates attains the age of seventeen or eighteen, the court shall deal with the application as if he had not attained the age in question.

Editorial Information

- X3** S. 16 subsection (4) commencing “Where an application” substituted (*prosp.*) for subsection (4) commencing “If on an application” by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 4(4)**

Textual Amendments

- F78** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(2), **Sch. 7 para. 81**
- F79** Words “supervised person” substituted (*prosp.*) for “relevant infant” by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 4(2)(a)**
- F80** Words repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), 125(1), Sch. 16 para. 4(2)(b), **Sch. 20**
- F81** S. 16(i)(ii) commencing “(i) direct that he be” substituted (*prosp.*) for words commencing “either direct” and s. 16(i)(ii) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 25(1), **Sch. 14 para. 1(1)**
- F82** S. 16(3A)–(3C) inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para 4(3)**
- F83** S. 16 subsection (4) commencing “Where an application” substituted (*prosp.*) for subsection (4) commencing “If on an application” by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 4(4)**
- F84** Words “a remand under” substituted (*prosp.*) for “an interim order made by virtue of” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12, para. 25(2)(a), **Sch. 14 para. 1(1)**
- F85** Word “remands” substituted (*prosp.*) for words “makes an interim order in respect of” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 25(2)(b), **Sch. 14 para. 1(1)**
- F86** Word “remand” substituted (*prosp.*) for words “make an interim order in respect of” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 25(2)(c), **Sch. 14 para. 1(1)**
- F87** Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. II**
- F88** Words inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para 25(3), **Sch. 14 para. 1(1)** and by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 4(5)**
- F89** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F90** Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. II**
- F91** Words inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), **Sch. 12** pra. 25(3) Sch. 14 para. 1(1) and by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 4(5)**
- F92** References to “section 12B(1)” substituted by virtue of Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 128, **Sch. 10 Pt. II**
- F93** Words inserted by Children and Young Persons (Amendment) Act 1986 (c. 28, SIF 20), **ss. 2(2)**, 6 and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F94** Words substituted by virtue of Courts Act 1971 (c. 23, SIF 37), s. 56(2), **Sch. 9 Pt. I**
- F95** Words inserted by Criminal Law Act 1977 (c. 45, SIF 39:1), **Sch. 12**
- F96** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 14 para. 26**
- F97** Words repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), **Sch. 16**

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Marginal Citations

M15 1980 c. 43(82).

M16 1982 c. 48(39:1).

[^{F98}16A

- (1) The provisions of section 17 of the Criminal Justice Act 1982 (attendance centre orders) shall apply for the purposes of section 15(2A)(b) and (4)(a) of this Act but as if—
- (a) in subsection (1), for the words from “has power” to “probation order” there were substituted the words “considers it appropriate to make an attendance centre order in respect of any person in pursuance of section 15(2A) or (4) of the Children and Young Persons Act 1969”;
 - (b) for references to an offender there were substituted references to a supervised person; and
 - (c) subsection (13) were omitted.
- (2) Sections 18 and 19 of the Criminal Justice Act 1982 (discharge and variation of attendance centre order and breach of attendance centre orders or attendance centre rules) shall also apply for the purposes of each of those paragraphs but as if—
- (a) for the references to an offender there were substituted references to the person in respect of whom the attendance centre order has been made; and
 - (b) there were omitted—
 - (i) from subsections (3) and (5) of section 19, the words “, for the offence in respect of which the order was made,” and “for that offence”; and
 - (ii) from subsection (6), the words “for an offence”]

Textual Amendments

F98 S. 16A inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, [Sch. 10 Pt. IV](#)

VALID FROM 30/09/1998

[^{F99}16B **Application of section 12 of Criminal Justice Act 1991 etc.**

- (1) The provisions of section 12 of the Criminal Justice Act 1991 (curfew orders) shall apply for the purposes of section 15(3)(a) of this Act but as if—
- (a) in subsection (1), for the words from the beginning to “before which he is convicted” there were substituted the words “Where a court considers it appropriate to make a curfew order in respect of any person in pursuance of section 15(3)(a) of the Children and Young Persons Act 1969, the court”; and
 - (b) in subsection (8), for the words “on conviction” there were substituted the words “on the date on which his failure to comply with a requirement included in the supervision order was proved to the court”.
- (2) Schedule 2 to the ^{M17}Criminal Justice Act 1991 (enforcement etc. of community orders), so far as relating to curfew orders, shall also apply for the purposes of that section but as if—

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- (a) the power conferred on the magistrates' court by each of paragraphs 3(1)(d) and 7(2)(a)(ii) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with a requirement included in the supervision order, in any manner in which the relevant court could deal with him for that failure to comply if it had just been proved to the satisfaction of that court;
 - (b) the power conferred on the Crown Court by paragraph 4(1)(d) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with such a requirement, in any manner in which that court could deal with him for that failure to comply if it had just been proved to its satisfaction;
 - (c) the reference in paragraph 7(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
 - (d) the power conferred on the Crown Court by paragraph 8(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with a requirement included in the supervision order, in any manner in which the relevant court (if that order was made by a magistrates' court) or the Crown Court (if that order was made by the Crown Court) could deal with him for that failure to comply if it had just been proved to the satisfaction of that court.
- (3) For the purposes of the provisions mentioned in subsection (2)(a) and (d) above, as applied by that subsection, if the supervision order is no longer in force the relevant court's powers shall be determined on the assumption that it is still in force.
- (4) In this section "relevant court" has the same meaning as in section 15 above.]

Textual Amendments

F99 S. 16B inserted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 para.21; S.I. 1998/2327, art.2(1)(y)(2)(i).

Marginal Citations

M17 1991 c.53.

17 Termination of supervision.

A supervision order shall, unless it has previously been discharged, cease to have effect—

- (a) in any case, on the expiration of the period of three years, or such shorter period as may be specified in the order, beginning with the date on which the order was originally made;
- [^{F100}(b) if the order was made by virtue of section 1 of this Act or on the occasion of the discharge of a care order and the supervised person attains the age of eighteen on a day earlier than that on which the order would expire under paragraph (a) above, on that earlier day.]
- [^{F101}(c) in the case of an order made by virtue of section 1 of this Act, if an event mentioned in paragraph (a) or (b) of section 25(1) of the Child Abduction and Custody Act 1985 occurs with respect to the child.]

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Textual Amendments

F100 S. 17(b) repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**

F101 S. 17(c) added by Child Abduction and Custody Act 1985 (c. 60, SIF 20), s. 25(3) and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**

Modifications etc. (not altering text)

C9 S. 17(a) restricted (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 189(5)(b), 390(5)(b)

18 Supplementary provisions relating to supervision orders.

- (1) A court shall not make a supervision order unless it is satisfied that the supervised person resides or will reside in the area of a local authority; and a court shall be entitled to be satisfied that the supervised person will so reside if he is to be required so to reside by a provision to be included in the order in pursuance of section 12(1) of this Act.
- (2) A supervision order—
 - (a) shall name the area of the local authority and the petty sessions area in which it appears to the court making the order, or to the court varying any provision included in the order in pursuance of this paragraph, that the supervised person resides or will reside; and
 - (b) may contain such prescribed provisions as the court aforesaid considers appropriate for facilitating the performance by the supervisor of his functions under section 14 of this Act, including any prescribed provisions for requiring visits to be made by the supervised person to the supervisor,
and in paragraph (b) of this subsection “prescribed” means prescribed by rules under ^{F102}section 144 of the ^{M18}Magistrates’ Courts Act 1980].
- (3) A court which makes a supervision order or an order varying or discharging a supervision order shall forthwith send a copy of its order—
 - (a) to the supervised person and, if the supervised person is a child, to his parent or guardian; and
 - (b) to the supervisor and any person who has ceased to be the supervisor by virtue of the order; and
 - (c) to any local authority who is not entitled by virtue of the preceding paragraph to such a copy and whose area is named in the supervision order in pursuance of the preceding subsection or has ceased to be so named by virtue of the court’s order; and
 - (d) where the supervised person is required by the order, or was required by the supervision order before it was varied or discharged, to reside with an individual or to undergo treatment by or under the direction of an individual or at any place, to the individual or the person in charge of that place; and
 - (e) where a petty sessions area named in the order or discharged order in pursuance of subsection (2) of this section is not that for which the court acts, to the clerk to the justices for the petty sessions area so named;

and, in a case falling within paragraph (e) of this subsection, shall also send to the clerk to the justices in question such documents and information relating to the case as the court considers likely to be of assistance to them.

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[^{F103}(4) Where a supervision order—

- (a) requires compliance with directions given by virtue of section 12(2) of this Act; or
- (b) includes by virtue of [^{F104}section 12A(3)] of this Act a requirement which involves the use of facilities for the time being specified in a scheme in force under section 19 of this Act for an area in which the supervised person resides or will reside,

any expenditure incurred by the supervisor for the purposes of the directions or requirements shall be defrayed by the local authority whose area is named in the order in pursuance of subsection (2) of this section.]

Textual Amendments

F102 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 154\(2\), Sch. 7 para. 82](#)

F103 [S. 18\(4\)](#) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 20\(2\)](#)

F104 Reference to “section 12A(3)” substituted by virtue of [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 128, Sch. 10 Pt. II](#)

Marginal Citations

M18 [1980 c. 43\(82\)](#).

[^{F105}**19 Facilities for the carrying out of supervisors’ directions and requirements included in supervision orders by virtue of section 12(3C).**

- (1) It shall be the duty of a local authority, acting either individually or in association with other local authorities, to make arrangements with such persons as appear to them to be appropriate, for the provision by those persons of facilities for enabling—
 - (a) directions given by virtue of section 12(2) of this Act to persons resident in their area; and
 - (b) requirements that may only be included in a supervision order by virtue of [^{F106}section 12A(3)] of this Act if they are for the time being specified in a scheme,
 to be carried out effectively.
- (2) The authority or authorities making any arrangements in accordance with subsection (1) of this section shall consult each relevant probation committee as to the arrangements.
- (3) Any such arrangements shall be specified in a scheme made by the authority or authorities making them.
- (4) A scheme shall come into force on a date to be specified in it.
- (5) The authority or authorities making a scheme shall send copies of it to the clerk to the justices for each petty sessions area of which any part is included in the area to which the scheme relates.
- (6) A copy of a scheme shall be kept available at the principal office of every authority who are a party to it for inspection by members of the public at all reasonable hours, and any such authority shall on demand by any person furnish him with a copy of the scheme free of charge.

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- (7) The authority or authorities who made a scheme may at any time make a further scheme altering the arrangements or specifying arrangements to be substituted for those previously specified.
- (8) A scheme which specifies arrangements to be substituted for those specified in a previous scheme shall revoke the previous scheme.
- (9) The powers conferred by subsection (7) of this section shall not be exercisable by an authority or authorities unless they have first consulted each relevant probation committee.
- (10) The authority or authorities who made a scheme shall send to the clerk to the justices for each petty sessions area of which any part is included in the area for which arrangements under this section have been specified in the scheme notice of any exercise of a power conferred by subsection (7) of this section, specifying the date for the coming into force, and giving details of the effect, of the new or altered arrangements, and the new or altered arrangements shall come into force on that date.
- (11) Arrangements shall not be made under this section for the provision of any facilities unless the facilities are approved or are of a kind approved by the Secretary of State for the purposes of this section.
- (12) A supervision order shall not require compliance with directions given by virtue of section 12(2) of this Act unless the court making it is satisfied that a scheme under this section is in force for the area where the supervised person resides or will reside; and no such directions may involve the use of facilities which are not for the time being specified in a scheme in force under this section for that area.
- (13) Subject to subsection (14) of this section, a supervision order may not include by virtue of ^{F106}subsection 12A(3)] of this Act—
 - (a) any requirement that would involve the supervised person in absence from home—
 - (i) for more than 2 consecutive nights; or
 - (ii) for more than 2 nights in any one week; or
 - (b) if the supervised person is of compulsory school age, any requirement to participate in activities during normal school hours,
unless the court making the order is satisfied that the facilities whose use would be involved are for the time being specified in a scheme in force under this section for the area in which the supervised person resides or will reside.
- (14) Subsection (13)(b) of this section does not apply to activities carried out in accordance with arrangements made or approved by the local education authority in whose area the supervised person resides or will reside.
- (15) It shall be the duty of every local authority to ensure that a scheme made by them in accordance with this section, either individually or in association with any other local authority, comes into force for their area not later than 30th April 1983 or such later date as the Secretary of State may allow.
- (16) In this section “relevant probation committee” means a probation committee for an area of which any part is included in the area to which a scheme under this section relates.
- (17) Expressions used in this section and in the ^{M19}Education Act 1944 have the same meanings in this section as in that Act.]

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Textual Amendments

F105 S. 19 substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 21(1)

F106 Reference to “section 12A(3)” substituted by virtue of [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 128, [Sch. 10 Pt. II](#)

Marginal Citations

M19 1944 c. 31(41:1).

Committal to care of local authorities

[^{F107}20 Orders for committal to care of local authorities.

- (1) Any provision of this Act authorising the making of a care order in respect of any person shall be construed as authorising the making of an order committing him to the care of a local authority; and in this Act “care order” shall be construed accordingly and “interim order” means a care order containing provision for the order to expire with the expiration of twenty-eight days, or of a shorter period specified in the order, beginning—
 - (a) if the order is made by a court, with the date of the making of the order; and
 - (b) if it is made by a justice, with the date when the person to whom it relates was first in legal custody in connection with the matter in consequence of which the order is made.
- (2) The local authority to whose care a person is committed by a care order shall be—
 - (a) except in the case of an interim order, the local authority in whose area it appears to the court making the order that that person resides or, if it does not appear to the court that he resides in the area of a local authority, any local authority in whose area it appears to the court that any offence was committed or any circumstances arose in consequence of which the order is made; and
 - (b) in the case of an interim order, such one of the local authorities mentioned in paragraph (a) of this subsection as the court or justice making the order thinks fit (whether or not the person in question appears to reside in their area).

[in determining the place of residence of any person for the purposes of this section,
^{F108}(2A) any period shall be disregarded during which, while in the care of a local authority (whether by virtue of a care order or not), he resided outside the local authority’s area.]

- (3) Subject to the provisions of the following section, a care order other than an interim order shall cease to have effect—
 - (a) if the person to whom it relates had attained the age of sixteen when the order was originally made, when he attains the age of nineteen; and
 - (b) in any other case, when that person attains the age of eighteen.
- (4) A care order shall be sufficient authority for the detention by any local authority or constable of the person to whom the order relates until he is received into the care of the authority to whose care he is committed by the order.]

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Textual Amendments

F107 Ss. 20–22 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**

F108 S. 20(2A) inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para. 12**

Modifications etc. (not altering text)

C10 S. 20(3) excluded by Army Act 1955 (c. 18, SIF 7:1), **Sch. 5A para 7(4)**, Air Force Act 1955 (c. 19, SIF 7:1), **Sch. 5A para 7(4)** and Naval Discipline Act 1957 (c. 53, SIF 7:1), **Sch. 4A para 7(4)** (Schs. 5A paras. 7(4) of the said Acts of 1955 and Sch. 4A para. 7(4) of the Act of 1957 substituted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4), Sch. 12 paras. 8, 10, **18**)

[^{F109}20A Power of court to add condition as to charge and control of offender in care.

- (1) Where a person to whom a care order relates which was made—
 - (a) by virtue of subsection (3) of section 1 of this Act in a case where the court which made the order was of the opinion that the condition mentioned in subsection (2)(f) of that section was satisfied; or
 - (b) by virtue of section 7(7) of this Act, [^{F110}or
 - (c) by virtue of section 15(1) of this Act in a case where—
 - (i) the supervision order for which the care order was substituted was made under section 7(7) of this Act; and
 - (ii) the offence in respect of which the supervision order was made was punishable with imprisonment in the case of a person over 21,]

is convicted or found guilty of an offence punishable with imprisonment in the case of a person over 21, the court which convicts or finds him guilty of that offence may add to the care order a condition under this section that the power conferred by section 21(2) of the ^{M20}Child Care Act 1980 (power of local authority to allow a parent, guardian, relative or friend charge and control) shall for such period not exceeding 6 months as the court may specify in the condition—

 - (a) not be exercisable; or
 - (b) not be exercisable except to allow the person to whom the order relates to be under the charge and control of a specified parent, guardian, relative or friend.
- (2) Where—
 - (a) the power conferred by subsection (1) above has been exercised; and
 - (b) before the period specified in the condition has expired the person to whom the care order relates is convicted or found guilty of another offence punishable with imprisonment in the case of a person over 21,

the court may replace the condition with another condition under this section.
- (3) A court shall not exercise the powers conferred by this section unless the court is of opinion that it is appropriate to exercise those powers because of the seriousness of the offence and that no other method of dealing with the person to whom the care order relates is appropriate; and for the purpose of determining whether any other method of dealing with him is appropriate the court shall obtain and consider information about the circumstances.

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- (4) A court shall not exercise the said powers in respect of a person who is not legally represented in that court unless either—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
 - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (5) Before adding a condition under this section to a care order a court shall explain to the person to whom the care order relates the purpose and effect of the condition.
- (6) At any time when a care order includes a condition under this section—
- (a) the person to whom the order relates;
 - (b) his parent or guardian, acting on his behalf; or
 - (c) the local authority in whose care he is,
- may apply to a juvenile court for the revocation or variation of the condition.
- (7) The local authority may appeal to the Crown Court against the imposition of a condition under this section by a magistrates' court or against the terms of such a condition.
- (8) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is convicted or found guilty and before any power conferred by this section is exercised, and in this section “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to the exercise of the power; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.]

Textual Amendments

F109 S. 20A inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 22](#) and repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), [s. 108\(2\)\(6\)\(7\)](#), [Sch. 14 para. 27\(4\)](#), [Sch. 15](#)

F110 S. 20A(1)(c) and word “or” immediately preceding it inserted (*prosp.*) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), [ss. 170\(1\), 171](#), [Sch. 15 para. 35](#)

Marginal Citations

M20 1980 c. 5(20).

[^{F111}21 Variation and discharge of care orders.

- (1) If it appears to a juvenile court, on the application of a local authority to whose care a person is committed by a care order which would cease to have effect by virtue of subsection (3)(b) of the preceding section, that he is accommodated in a community home or a home provided by the Secretary of State and that by reason of his mental condition or behaviour it is in his interest or the public interest for him to continue to be so accommodated after he attains the age of eighteen, the court may order that the care order shall continue in force until he attains the age of nineteen; but the court shall not make an order under this subsection unless the person in question is present before the court.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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- (2) If it appears to a juvenile court, on the application of a local authority to whose care a person is committed by a care order or on the application of that person, that it is appropriate to discharge the order, the court may discharge it and on discharging it may, unless it was an interim order and unless the person to whom the discharged order related has attained the age of eighteen, make a supervision order in respect of him.
- [A juvenile court shall not make an order under subsection (2) of this section in the
- ^{F112}(2A) case of a person who has not attained the age of eighteen and appears to the court to be in need of care or control unless the court is satisfied that, whether through the making of a supervision order or otherwise, he will receive that care or control.]
- (3) Where an application under [^{F113}subsection (2) of this section] for the discharge of a care order is dismissed, then—
- (a) in the case of an interim order, no further application for its discharge shall be made under that subsection except with the consent of a juvenile court (without prejudice to the power to make an application under subsection (4) of the following section); and
- (b) in any other case, no further application for its discharge shall be made under this subsection by any person during the period of three months beginning with the date of the dismissal except with the consent of a juvenile court.
- (4) The person to whom the relevant care order relates or related may appeal to [^{F114}the Crown court] against an order under subsection (1) of this section or a supervision order made in pursuance of subsection (2) of this section or the dismissal of an application under the said subsection (2) for the discharge of the care order.
- [In a case where a parent or guardian is a party to the proceedings on an application
- ^{F115}(4A) under subsection (2) of this section by virtue of an order under section 32A of this Act, the parent or guardian may appeal to the Crown Court against the making of a supervision order or the refusal of the court to discharge the care order.]
- (5) The local authority to whose care a person is committed by a care order (other than an interim order) may, within the period of three months beginning with the date of the order, appeal to [^{F114}the Crown Court] against the provision of the order naming their area on the ground that at the time the order was made the person aforesaid resided in the area of another local authority named in the notice of appeal; but no appeal shall be brought by a local authority under this subsection unless they give notice in writing of the proposal to bring it to the other local authority in question before giving notice of appeal.
- (6) References in this section to a juvenile court, in relation to a care order, are references to a juvenile court acting for any part of the area of the local authority to whose care a person is committed by the order or for the place where that person resides.]

Textual Amendments

F111 Ss. 20–22 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), Sch. 15

F112 S. 21(2A) inserted by Children Act 1975 (c. 72, SIF 49:9), Sch. 3 para. 69(a)

F113 Words substituted by Children Act 1975 (c. 72, SIF 49:9), Sch. 3 para. 69(b)

F114 Words substituted by virtue of Courts Act 1971 (c. 23, SIF 37), s. 56(2), Sch. 9 Pt. I

F115 S. 21(4A) inserted by Children and Young Persons (Amendment) Act 1986 (c. 28, SIF 20), ss. 2(3), 6

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Modifications etc. (not altering text)

- C11** S. 21(2) amended by Child Care Act 1980 (c. 5, SIF 20), s. 11(1)
- C12** S. 21(5) excluded by Army Act 1955 (c. 18, SIF 7:1), Sch. 5A para 7(4), Air Force Act 4 1955 (c. 19, SIF 7:1), Sch. 5A para 7(4) and Naval Discipline Act 1957 (c. 53, SIF 7:1), Sch. 4A para 7(4) (Schs. 5A paras. 7(4) of the said Acts of 1955 and Sch. 4A para. 7(4) of the Act of 1957 substituted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4), Sch. 12 paras. 8, 10, 18)

[^{F116}21A Termination of care order on adoption etc.

- (1) A care order relating to a person under the age of 18 shall cease to have effect—
- (a) on his adoption;
 - (b) if any order under an enactment to which this paragraph applies is made in relation to him;
 - (c) if an order similar to an order under section 25 of the ^{M21}Children Act 1975 is made in relation to him in Northern Ireland, the Isle of Man or any of the Channel Islands.
- (2) Subsection (1)(b) above applies to the following enactments—
- (a) sections 14 and 25 of the Children Act 1975;
 - (b) sections 18 and 55 of the ^{M22}Adoption Act 1976; and
 - (c) sections 18 and 49 of the ^{M23}Adoption (Scotland) Act 1978.
- (3) After the commencement of section 55 of the Adoption Act 1976 subsection (1)(c) above shall have effect with the substitution of “55 of the Adoption Act 1976” for “25 of the Children Act 1975”.]

Textual Amendments

- F116** S. 21A substituted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), Sch. 2 para. 13 and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6) (7), Sch. 14 para. 27(4), Sch. 15

Modifications etc. (not altering text)

- C13** S. 21A: by Adoption Act 1976 (c. 36, SIF 49:11), ss. 73, 74(2), Sch. 3 para. 11 it was provided that in s. 21A, for the references to sections 14 and 25 of the Children Act 1975 there should be substituted references to sections 18 and 55 respectively of the Adoption Act 1976

Marginal Citations

- M21** 1975 c. 72(49:9).
M22 1976 c. 36(49:11).
M23 1978 c. 28(49:11)

[^{F117}22 Special provisions relating to interim orders.

- (1) A juvenile court or a justice shall not make an interim order in respect of any person unless either—
- (a) that person is present before the court or justice; or
 - (b) the court or justice is satisfied that he is under the age of five or cannot be present as aforesaid by reason of illness or accident.

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- (2) An interim order shall contain provision requiring the local authority to whose care a person is committed by the order to bring that person before a court specified in the order on the expiration of the order or at such earlier time as the specified court may require, so however that the said provision shall, if the court making the order considers it appropriate so to direct by reason of the fact that that person is under the age of five ^{F118}or is legally represented] or by reason of illness or accident, require the local authority to bring him before the specified court on the expiration of the order only if the specified court so requires.
- (3) A juvenile court acting for the same area as a juvenile court by which or a justice by whom an interim order has been made in respect of any person may, at any time before the expiration of the order, make a further interim order in respect of him; and the power to make an interim order conferred by this subsection is without prejudice to any other power to make such an order.
- (4) The High Court may, on the application of a person to whom an interim order relates ^{F119}, or, in a case where the order was made in proceedings to which a parent or guardian was a party by virtue of an order under section 32A of this Act, of the parent or guardian,], discharge the order on such terms as the court thinks fit; but if on such an application the discharge of the order is refused, the local authority to whose care he is committed by the order shall not exercise in his case their powers under ^{F120}section 21(2) of the ^{M24}Child Care Act 1980] (which enables them to allow a parent or other person to be in charge of him) except with the consent and in accordance with any directions of the High Court.
- (5) ^{F121}
- (6) Subsections (1), (3) and (4) of this section, so much of section 2(11)(a) as requires the clerk to be informed and section 21(2) to (4) s of this Act shall apply to a warrant under subsection (5) of this section as they apply to an interim order but as if the words “is under the age of five or” in subsection (1) of this section were omitted.]

Textual Amendments

- F117** Ss. 20–22 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F118** Words inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para. 14**
- F119** Words inserted by Children and Young Persons (Amendment) Act 1986 (c. 28, SIF 20), **ss. 2(4), 6**
- F120** Words substituted by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 5 para. 24**
- F121** S. 22(5) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 125, 170(2), **Sch. 16**

Marginal Citations

- M24** 1980 c. 5(20).

23 Remand to care of local authorities 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,

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and he is not released on bail, then, subject to the following provisions of this section, the court shall commit him to the care of a local authority in whose area it appears to the court that he resides or that the offence or one of the offences was committed.

- (2) If the court aforesaid certifies that a young person is of so unruly a character that he cannot safely be committed to the care of a local authority under the preceding subsection, then if the court has been notified by the Secretary of State that a remand centre is available for the reception from the court of persons of his class or description, it shall commit him to a remand centre and, if it has not been so notified, it shall commit him to a prison.
- (3) If, on the application of the local authority to whose care a young person is committed by a warrant under subsection (1) of this section, the court by which he was so committed or any magistrates' court having jurisdiction in the place where he is for the time being certifies as mentioned in subsection (2) of this section, the provisions of the said subsection (2) relating to committal shall apply in relation to him and he shall cease to be committed in pursuance of the said subsection (1).
- (4) The preceding provisions of this section shall have effect subject to the provisions of [F122section 37 of the M25Magistrates' Courts Act 1980] (which relates to committal to [F123the Crown court] with a view to a [F124youth custody sentence]).
- (5) In this section "court" and "magistrates' court" include a justice; and notwithstanding anything in the preceding provisions of this section, [F125section 128(7) of the said Act of 1980] (which provides for remands to the custody of a constable for periods not exceeding three clear days) 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.

Textual Amendments

F122 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 154\(2\), Sch. 7 para 83\(a\)](#)

F123 Words substituted by virtue of [Courts Act 1971 \(c. 23, SIF 37\), Sch. 8 para. 34\(1\)](#)

F124 Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), Sch. 14 para. 27](#)

F125 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 154\(2\), Sch. 7 para. 83\(b\)](#)

Modifications etc. (not altering text)

C14 [S. 23\(2\)\(3\)](#) restricted by [Children Act 1975 \(c. 72, SIF 49:9\), s. 69](#); amended by [S.I. 1979/125](#) and [1981/81, art. 2](#)

Marginal Citations

M25 [1980 c. 43\(82\)](#).

VALID FROM 03/02/1995

[F126]23A Liability to arrest for breaking conditions of remand.

- (1) A person who has been remanded or committed to local authority accommodation and in respect of whom conditions under subsection (7) or (10) of section 23 of this Act have been imposed may be arrested without warrant by a constable if the constable has reasonable grounds for suspecting that that person has broken any of those conditions.

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- (2) A person arrested under subsection (1) above—
- (a) shall, except where he was arrested within 24 hours of the time appointed for him to appear before the court in pursuance of the remand or committal, be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area in which he was arrested; and
 - (b) in the said excepted case shall be brought before the court before which he was to have appeared.

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

- (3) A justice of the peace before whom a person is brought under subsection (2) above—
- (a) if of the opinion that that person has broken any condition imposed on him under subsection (7) or (10) of section 23 of this Act shall remand him; and that section shall apply as if he was then charged with or convicted of the offence for which he had been remanded or committed;
 - (b) if not of that opinion shall remand him to the place to which he had been remanded or committed at the time of his arrest subject to the same conditions as those which had been imposed on him at that time.]

Textual Amendments

F126 S. 23A inserted (3.2.1995) by 1994 c. 33, s.23; S.I. 1995/127, art. 2(1), **Sch.1** (with transitional savings in art. 2(2), **Sch.2** para. 1)

VALID FROM 01/03/2002

^{F127} **23A** Electronic monitoring of conditions of remand

- (1) A court shall not impose a condition on a person under section 23(7)(b) above (an “electronic monitoring condition”) unless each of the following requirements is fulfilled.
- (2) The first requirement is that the person has attained the age of twelve years.
- (3) The second requirement is that—
 - (a) the person is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
 - (b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—
 - (i) amount, or
 - (ii) would, if he were convicted of the offences with which he is charged, amount,to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation.
- (4) The third requirement is that the court—

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- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in each petty sessions area which is a relevant area; and
 - (b) is satisfied that the necessary provision can be made under those arrangements.
- (5) The fourth requirement is that a youth offending team has informed the court that in its opinion the imposition of such a condition will be suitable in the person’s case.
- (6) Where a court imposes an electronic monitoring condition, the condition shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) The Secretary of State may make rules for regulating—
- (a) the electronic monitoring of compliance with conditions imposed under section 23(7)(a) above; and
 - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with such conditions.
- (8) Subsections (8) to (10) of section 3AA of the Bail Act 1976 (c. 63) (provision about rules and orders under that section) shall apply in relation to this section as they apply in relation to that section.
- (9) For the purposes of this section a petty sessions area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.]

Textual Amendments
F127 S. 23AA inserted (1.3.2002) by Criminal Justice and Police Act 2001 (c. 16), s. 132(b); S.I. 2002/344, art. 2 (with transitional provisions in art. 4)

24 F128

Textual Amendments
F128 Ss. 24, 27 repealed by Child Care Act 1980 (c. 5), SIF 20), s. 89, Sch. 6

Transfer

25 Transfers between England or Wales and Northern Ireland.

- (1) If it appears to the Secretary of State, on the application of the [F129 welfare authority][F129 Ministry of Home Affairs for Northern Ireland (in this section referred to as the Ministry of Home Affairs)] or the managers of the training school to whose care a person is committed by a fit person order or by virtue of a training school order [F130 or by an order under subsection (2) below], that his parent or guardian resides or

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will reside in the area of a local authority in England or Wales, the Secretary of State may make an order committing him to the care of that local authority; and while an order under this subsection is in force it shall have effect as if it were a care order and as if sections 20(2) and (3) and 21(1) and (5) of this Act were omitted and in section 31(3)(a) of this Act for the reference to section 20(3) there were substituted a reference to subsection (3) of this section.

- (2) If it appears to the ^{F131}the Secretary of State], on the application of the local authority to whose care a person is committed by a care order other than an interim order ^{F130}or by an order under subsection (1) above], that his parent or guardian resides or will reside in Northern Ireland, ^{F131}the Secretary of State] may make an order committing him to the care of the managers of a training school or to the care of the ^{F132}welfare authority in whose area his parent or guardian resides or will reside^{F132}Secretary of State] and the provisions of the ^{M26}Children and Young Persons Act (Northern Ireland) 1968 (except sections 83(3)(a), 88(3), 90 and 91(3)) shall apply to an order under this subsection as if it were a training school order made on the date of the care order or, as the case may be, a fit person order.

^{F133}If an order under this subsection commits a person to the care of the managers of a training school, the contributions to be made in respect of him under section 161 of the said Act of 1968 shall be made by such council as may be named in that order, being the council within whose district his parent proposes to reside or is residing at the time of the order.]

- (3) When a person is received into the care of a local authority or ^{F134}welfare authority^{F134}the Ministry of Home Affairs] or the managers of a training school in pursuance of an order under this section, the training school order, fit person order or care order in consequence of which the order under this section was made shall cease to have effect; and the order under this section shall, unless it is discharged earlier, cease to have effect—
- (a) in the case of an order under subsection (1), on the earlier of the following dates, that is to say, the date when the person to whom the order relates attains the age of nineteen or the date when, by the effluxion of time, the fit person order aforesaid would have ceased to have effect or, as the case may be, the period of his detention under the training school order aforesaid would have expired;
- (b) in the case of an order under subsection (2), on the date when the care order aforesaid would have ceased to have effect by the effluxion of time or—
- (i) if the person to whom the order relates is committed by it to the care of ^{F135}a welfare authority^{F135}the Ministry of Home Affairs] and will attain the age of eighteen before that date, when he attains that age;
- (ii) if the order has effect by virtue of subsection (2) as a training school order and the period of supervision following the detention of the person in question in pursuance of the order expires before that date, when that period expires.
- (4) An order under this section shall be sufficient authority for the detention in Northern Ireland, by any constable or by a person duly authorised by a local authority or ^{F136}welfare authority^{F136}the Ministry of Home Affairs] or the managers of a training school, of the person to whom the order relates until he is received into the care of the authority ^{F137}Ministry] or managers to whose care he is committed by the order.
- (5) In this section “training school”, ^{F138}“training school order” and “welfare authority”^{F138}and “training school order”] have the same meaning as in the said Act

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of 1968, and “fit person order” means an order under that Act committing a person to the care of a fit person.

Textual Amendments

- F129** Words from “Ministry” to “Affairs”) substituted (N.I.) for words “welfare authority” by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2
- F130** Words inserted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 2 para. 15](#)
- F131** Words substituted (N.I.) by virtue of [S.I. 1973/2163, arts. 2\(1\), 11\(5\)](#), [Sch. 1](#)
- F132** Words “Secretary of State” substituted (N.I.) for words from “welfare” to “reside” by virtue of S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2 and [S.I. 1973/2163, arts. 2\(1\), 11\(5\)](#), [Sch. 1](#)
- F133** Words repealed (N.I.) by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2
- F134** Words “the Ministry of Home Affairs” substituted (N.I.) for words “welfare authority” by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2
- F135** Words “the Ministry of Home Affairs” substituted (N.I.) for words “a welfare authority” by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2
- F136** Words “the Ministry of Home Affairs” substituted (N.I.) for words “welfare authority” by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2
- F137** Word inserted (N.I.) by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2
- F138** Words “and “training school order”” substituted (N.I.) for words “training school order” and “welfare authority” by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2

Modifications etc. (not altering text)

- C15** [Ss. 25, 26](#): power to amend conferred (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), [ss. 101\(5\)\(a\), 108\(2\)](#)
- C16** [S. 25\(2\)](#): Certain functions transferred (N.I.) by [S.I. 1973/2163, Sch. 1](#)
- C17** [S. 25\(2\)](#) excluded by [Army Act 1955 \(c. 18, SIF 7:1\)](#), [Sch. 5A para 7\(4\)](#), [Air Force Act 1955 \(c. 19, SIF 7:1\)](#), [Sch 5A para 7\(4\)](#) and [Naval Discipline Act 1957 \(c. 53, SIF 7:1\)](#), [Sch. 4A para 7\(4\)](#) (Schs. 5A para. 7(3) of the said Acts of 1955 and Sch. 4A para. 7(3) of the Act 1957 substituted (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), [s. 108\(2\)\(4\)](#), [Sch. 12 paras. 8, 10, 18](#))

Marginal Citations

- M26** [1968 c. 34 \(N.I.\)](#)

26 Transfers between England or Wales and the Channel Islands or Isle of Man.

- (1) The Secretary of State may by order designate for the purposes of this section an order of any description which—
- (a) a court in the Isle of Man or any of the Channel Islands is authorised to make by the law for the time being in force in that country; and
 - (b) provides for the committal to the care of a public authority of a person who has not attained the age of eighteen; and
 - (c) appears to the Secretary of State to be of the same nature as a care order other than an interim order;

and in this section “relevant order” means an order of a description for the time being so designated and “the relevant authority”, in relation to a relevant order, means the authority in the Isle of Man or any of the Channel Islands to whose care the person to whom the order relates is, under the law of that country, committed by the order.

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- (2) The Secretary of State may authorise a local authority to receive into their care any person named in the authorisation who is the subject of a relevant order; and while such an authorisation is in force in respect of any person he shall, subject to the following subsection, be deemed to be the subject of a care order committing to the care of the local authority.
- (3) This Act shall have effect, in relation to a person in respect of whom an authorisation under this section is in force, as if sections 20(2) and (3), 21 and 31. . . ^{F139} were omitted; and it shall be the duty of a local authority who propose, in exercise of their powers under [^{F140}section 21(2) of the ^{M27}Child Care Act 1980], to allow such a person to be under the charge and control of a person residing outside England and Wales to consult the relevant authority before exercising those powers.
- (4) An authorisation given to a local authority under this section shall cease to have effect when—
- (a) the local authority is informed by the Secretary of State that he has revoked it; or
 - (b) the relevant order to which the authorisation relates ceases to have effect by the effluxion of time under the law of the place where the order was made or the local authority is informed by the relevant authority that the order has been discharged under that law; or
 - (c) the person to whom the relevant order relates is again received into the care of the relevant authority;

and if a local authority having by virtue of this section the care of a person to whom a relevant order relates is requested by the relevant authority to make arrangements for him to be received again into the care of the relevant authority, it shall be the duty of the local authority to comply with the request.

Extent Information

E1 S. 26 extends to England, Wales, the Channel Islands and the Isle of Man only

Textual Amendments

F139 Words repealed by [Child Care Act 1980 \(c. 5, SIF 20\)](#), s. 89, [Sch. 5 para. 25](#)

F140 Words substituted by [Child Care Act 1980 \(c. 5, SIF 20\)](#), s. 89, [Sch. 5 para. 25](#)

Modifications etc. (not altering text)

C18 Ss. 25, 26: power to amend conferred (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), [ss. 101\(5\)\(a\), 108\(2\)](#)

Marginal Citations

M27 [1980 c. 5\(20\)](#).

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Textual Amendments

F141 Ss. 24, 27 repealed by [Child Care Act 1980 \(c. 5\)](#), SIF 20), s. 89, Sch. 6 (s. 27(4) expressed to be repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(2)(6)(7), Sch. 14 para. 27(4), 36(3)(a), [Sch. 15](#))

Detention

[^{F142}28 **Detention of child or young person in place of safety.**

- (1) If, upon an application to a justice by any person for authority to detain a child or young person and take him to a place of safety, the justice is satisfied that the applicant has reasonable cause to believe that—
- (a) any of the conditions set out in section 1(2)(a) to (e) of this Act is satisfied in respect of the child or young person; or
 - (b) an appropriate court would find the condition set out in section 1(2)(b) of this Act satisfied in respect of him; or
 - (c) the child or young person is about to leave the United Kingdom in contravention of section 25 of the Act of 1933 (which regulates the sending abroad of juvenile entertainers),

the justice may grant the application; and the child or young person in respect of whom an authorisation is issued under this subsection may be detained in a place of safety by virtue of the authorisation for twenty-eight days beginning with the date of authorisation, or for such shorter period beginning with that date as may be specified in the authorisation.

- (2) Any constable may detain a child or young person as respects whom the constable has reasonable cause to believe that any of the conditions set out in section 1(2)(a) to (d) of this Act is satisfied or that an appropriate court would find the condition set out in section 1(2)(b) of this Act satisfied or that an offence is being committed under section 10(1) of the Act of 1933 (which penalises a vagrant who takes a juvenile from place to place).
- (3) A person who detains any person in pursuance of the preceding provisions of this section shall, as soon as practicable after doing so, inform him of the reason for his detention and take such steps as are practicable for informing his parent or guardian of his detention and of the reason for it.
- (4) A constable who detains any person in pursuance of subsection (2) of this section or who arrests a child without a warrant otherwise than for homicide shall as soon as practicable after doing so secure that the case is enquired into by [^{F143}the custody officer at] a police station, and that officer shall on completing the enquiry either—
- (a) release the person in question; or
 - (b) if the officer considers that he ought to be further detained in his own interests or, in the case of an arrested child, because of the nature of the alleged offence, make arrangements for his detention in a place of safety and inform him, and take such steps as are practicable for informing his parent or guardian, of his right to apply to a justice under subsection (5) of this section for his release; and subject to the said subsection (5) it shall be lawful to detain the person in question in accordance with any such arrangements.

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- (5) It shall not be lawful for a child arrested without a warrant otherwise than for homicide to be detained in consequence of the arrest or such arrangements as aforesaid, or for any person to be detained by virtue of subsection (2) of this section or any such arrangements, after the expiration of the period of eight days beginning with the day on which he was arrested or, as the case may be, on which his detention in pursuance of the said subsection (2) began; and if during that period the person in question applies to a justice for his release, the justice shall direct that he be released forthwith unless the justice considers that he ought to be further detained in his own interests or, in the case of an arrested child, because of the nature of the alleged offence.
- (6) If while a person is detained in pursuance of this section an application for an interim order in respect of him is made to a magistrates' court or a justice, the court or justice shall either make or refuse to make the order and, in the case of a refusal, may direct that he be released forthwith.]

Textual Amendments

F142 S. 28 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4)(6), Sch. 15

F143 Words substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 121(1), Sch. 6 para. 19(a)

[^{F144}29] **Recognisance on release of arrested child or young person.**

A child or young person arrested in pursuance of a warrant shall not be released unless . . . ^{F145} his parent or guardian (with or without sureties) enters into a recognisance for such amount as the custody officer at the police station where he is detained considers will secure his attendance at the hearing of the charge; and the recognisance entered into in pursuance of this section may, if the custody officer thinks fit, be conditioned for the attendance of the parent or guardian at the hearing in addition to the child or young person.]

Textual Amendments

F144 S. 29 substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 121(1), Sch. 6 para. 19(b)

F145 Words repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 15 para. 36, Sch. 16

Modifications etc. (not altering text)

C19 S. 29 excluded by Prevention of Terrorism (Temporary Provisions) Act 1984 (c. 8, SIF 39:2), s. 12(6)

30 Detention of young offenders in community homes.

- (1) The power to give directions under section 53 of the Act of 1933 (under which young offenders convicted on indictment of certain grave crimes may be detained in accordance with directions given by the Secretary of State) shall include power to direct detention by a local authority specified in the directions in a home so specified which is a community home provided by the authority or a controlled community home for the management, equipment and maintenance of which the authority are

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responsible; but a person shall not be liable to be detained in the manner provided by this section after he attains the age of nineteen.

- (2) It shall be duty of a local authority specified in directions given in pursuance of this section to detain the person to whom the directions relate in the home specified in the directions subject to and in accordance with such instructions relating to him as the Secretary of State may give to the authority from time to time; and the authority shall be entitled to recover from the Secretary of State any expenses reasonably incurred by them in discharging that duty.

31 F146

Textual Amendments
F146 S. 31 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

32 Detention of absentees.

- (1) If any of the following persons, that is to say—
- (a) F147
 - (b) F148
 - (c) F149
 - (d) a person sent to a remand home, special reception centre or training school or committed to the care of a fit person under the ^{M28}Children and Young Persons Act (Northern Ireland) 1968,

is absent from premises at which he is required by . . . ^{F150} the relevant Northern Ireland authority to live, or as the case may be is absent from the home, remand home, special reception centre or training school, at a time when he is not permitted by . . . ^{F150} the relevant Northern Ireland authority to be absent from it, he may be arrested by a constable anywhere in the United Kingdom or the Channel Islands without a warrant and shall if so arrested be conducted, at the expense of the authority. . . ^{F150} to the premises or other place aforesaid or such other premises as the authority. . . ^{F150} may direct.

[^{F151X4}(1A) If a child or young person is absent from a place of safety to which he has been taken in pursuance of section 2(5), 16(3) or 28 of this Act without the consent of—

- (a) the person who made the arrangements for his detention in the place of safety in pursuance of the said section 2(5) or 16(3), or
- (b) the person on whose application an authorisation relating to the child or young person has been issued under the said section 28,

he may be arrested by a constable anywhere in the United Kingdom or the Channel Islands without a warrant, and shall, if so arrested, be conducted to the place of safety at the expense of the person referred to in paragraph (a) or (b) (as the case may be) of this subsection.]

[^{F151X4}(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

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- (ii) to which he has been remanded under ^{F152}section 23(1)]^{F152}section 16(3A) or 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 ^{F153}, 16(3B)] or 23 of this Act.]
- (2) If a magistrates' court is satisfied by information on oath that there are reasonable grounds for believing that a person specified in the information can produce a person who is absent as mentioned in subsection (1) ^{F154}or (1A)] of this section, the court may issue a summons directed to the person so specified and requiring him to attend and produce the absent person before the court; and a person who without reasonable excuse fails to comply with any such requirement shall, without prejudice to any liability apart from this subsection, be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding ^{F155}level 3 on the standard scale].
- In the application of this subsection to Northern Ireland, “magistrates court” means a magistrates' court within the meaning of the ^{F156M29}Magistrates' Courts (Northern Ireland) Order 1981].
- ^{F157}(2A) Without prejudice to its powers under subsection (2) of this section, a magistrates' court (within the meaning of that subsection) may, if it is satisfied by information on oath that there are reasonable grounds for believing that a person who is absent as mentioned in subsection (1) or (1A) of this section is in premises specified in the information, issue a search warrant authorising a constable to search the premises for that person.
- (2B) A court shall not issue a summons or search warrant under subsection (2) or (2A) of this section in any case where the person who is absent is a person to whom subsection (1A) of this section applies, unless the information referred to in the said subsection (2) or (2A) is given by the ^{F158}person referred to in subsection (1A)(a) or (b) (as the case may be) of this section]^{F158}responsible person].]
- (3) A person who knowingly compels, persuades, incites or assists another person to become or continue to be absent as mentioned in subsection (1) ^{F159}or (1A)] of this section shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine of an amount not exceeding ^{F160}level 5 on the standard scale] or both.
- (4) The reference to a constable in ^{F161}subsections (1),(1A) and (2A)] of this section includes a reference to a person who is a constable under the law of any part of the United Kingdom, to a member of the police in Jersey and to an officer of police within the meaning of section 43 of the Larceny (Guernsey) Law 1958 or any corresponding law for the time being in force, and in ^{F161}subsection (1)]“the relevant Northern Ireland authority” means in the case of a person committed to the care of a fit person, the fit person, and in the case of a person sent to a remand home, special reception centre or

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training school, the person in charge of that home or centre or the managers of that school.

- (5) Nothing in this section authorises the arrest in Northern Ireland of, or the taking there of any proceedings in respect of, such a person as is mentioned in paragraph (d) of subsection (1) of this section.

Editorial Information

- X4** S. 32(1A)–(1C) substituted (*prosp.*) for subsection (1A) (which was inserted by Children Act 1975 (c. 72, SIF 49:9, 10) s. 68(1)(3)) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 27(1), Sch. 14 paras. 1(1), **30**

Textual Amendments

- F147** S. 32(1)(a) repealed by Child Care Act 1980 (c. 5, SIF 20), ss. 89, 90(1), **Sch. 6**
- F148** S. 32(1)(b) repealed by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 68(1)(2)**
- F149** S. 32(1)(c) repealed by Child Care Act 1980 (c. 5, SIF 20), ss. 89, 90(1), **Sch. 6**
- F150** Words repealed by Child Care Act 1980 (c. 5, SIF 20), **ss. 89, 90(1)** Sch. 6
- F151** S. 32(1A)–(1C) substituted (*prosp.*) for subsection (1A) (which was inserted by Children Act 1975 (c. 72, SIF 49:9, 10) s. 68(1)(3)) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 27(1), Sch. 14 paras. 1(1), **30**
- F152** Words “section 16(3A) or 23(1)” substituted (*prosp.*) for “section 23(1)” by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 5(2)**
- F153** Words inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 124(3), **Sch. 16 para. 5(3)**
- F154** Words inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 68(1)(4)**
- F155** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and S.I. 1984/703 (N.I. 3), **art. 6**
- F156** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 para. 17**
- F157** S. 32(2A)(2B) inserted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 68(1)(5)**
- F158** Words “responsible person” substituted (*prosp.*) for words commencing “person referred to in subsection (1A)(a) or (b)” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 27(2), Sch. 14 paras. 1(1), **30**
- F159** Words inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para. 16**
- F160** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**, Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**) and S.I. 1984/703 (N.I. 3), **art. 6**
- F161** Words substituted by Children Act 1975 (c. 72, SIF 49:9, 10), **s. 68(1)(7)**

Modifications etc. (not altering text)

- C20** S. 32(3) excluded (*prosp.*) by Children Act 1989 (c. 41, SIF 20), **ss. 51(5)–(7)**, 108(2)

Marginal Citations

- M28** 1968 c. 34. (N.I.)
- M29** S.I. 1981/1675 (N.I. 26).

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Conflict of interest between parent and child or young person

[^{F162}32A Conflict of interest between parent and child or young person.

- (1) If before or in the course of proceedings in respect of a child or young person—
 - (a) in pursuance of section 1 of this Act, or
 - (b) on an application under section 15(1) of this Act for the discharge of a relevant supervision order or a supervision order made under section 21(2) of this Act on the discharge of a relevant care order; or
 - (c) on an application under section 21(2) of this Act for the discharge of a relevant care order or a care order made under section 15(1) of this Act on the discharge of a relevant supervision order; or
 - (d) on an appeal to the Crown Court under section 2(12) of this Act, or
 - (e) on an appeal to the Crown Court under section 16(8) of this Act against the dismissal of an application for the discharge of a relevant supervision order or against a care order made under section 15(1) on the discharge of—
 - (i) a relevant supervision order; or
 - (ii) a supervision order made under section 21(2) on the discharge of a relevant care order; or
 - (f) on an appeal to the Crown Court under section 21(4) of this Act against the dismissal of an application for the discharge of a relevant care order or against a supervision order made under section 21(2) on the discharge of—
 - (i) a relevant care order; or
 - (ii) a care order made under section 15(1) on the discharge of a relevant supervision order,

it appears to the court that there is or may be a conflict, on any matter relevant to the proceedings, between the interests of the child or young person and those of his parent or guardian, the court may order that in relation to the proceedings the parent or guardian is not to be treated as representing the child or young person or as otherwise authorised to act on his behalf.

- (2) If an application such as is referred to in subsection (1)(b) or (c) of this section is unopposed, the court, unless satisfied that to do so is not necessary for safeguarding the interests of the child or young person, shall order that in relation to proceedings on the application no parent or guardian of his shall be treated as representing him or as otherwise authorised to act on his behalf; but where the application was made by a parent or guardian on his behalf the order shall not invalidate the application.
- (3) Where an order is made under subsection (1) or (2) of this section for the purposes of proceedings on an application within subsection (1)(a), (b) or (c) of this section, that order shall also have effect for the purposes of any appeal to the Crown Court arising out of those proceedings.
- (4) The power of the court to make orders for the purposes of an application within subsection (1)(a), (b) or (c) of this section shall also be exercisable, before the hearing of the application, by a single justice.

[Where an order is made under this section in respect of a parent or guardian in relation ^{F163}(4A) to any proceedings he shall by virtue of the order be made a party to the proceedings.]

- (5) In this section—

“relevant care order” means a care order made under section 1 of this Act;

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“relevant supervision order” means a supervision order made under section 1 of this Act.]

Textual Amendments

- F162** Heading and ss. 32A, 32B inserted (prosp. except as to ss. 32A(1), 32B(2)) by [Children Act 1975](#) (c. 72, SIF 49:9, 10), [ss. 64, 108\(2\)](#) and ss. 32A, 32B repealed (*prosp.*) by [Children Act 1989](#) (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), [Sch. 15](#)
- F163** S. 32A(4A) inserted by [Children and Young Persons \(Amendment\) Act 1986](#) (c. 28, SIF 20), [ss. 3\(1\), 6](#)

[^{F164}**32B Safeguarding of interests of child or young person where section 32A order made.**

- (1) Where the court makes an order under section 32A(2) of this Act the court, unless satisfied that to do so is not necessary for safeguarding the interests of the child or young person, shall in accordance with rules of court appoint a guardian ad litem of the child or young person for the purposes of the proceedings.

In this subsection “court” includes a single justice.

- (2) Rules of court shall provide for the appointment of a guardian ad litem of the child or young person for the purposes of any proceedings to which an order under section 32A(1) of this Act relates.
- (3) A guardian ad litem appointed in pursuance of this section shall be under a duty to safeguard the interests of the child or young person in the manner prescribed by rules of court.]

Textual Amendments

- F164** Heading and ss. 32A, 32B inserted (prosp. except as to ss. 32A(1), 32B(2)) by [Children Act 1975](#) (c. 72, SIF 49:9, 10), [ss. 64, 108\(2\)](#) and ss. 32A, 32B repealed (*prosp.*) by [Children Act 1989](#) (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), [Sch. 15](#)

Modifications etc. (not altering text)

- C21** S. 32B(1) extended by [S.I. 1988/913](#), [rules 13\(1\), 16\(4\)](#)

[^{F165}**32C Applications by grand-parents to be parties to proceedings.**

- (1) Where in any such proceedings as are mentioned in section 32A(1) of this Act any grandparent of the child or young person in respect of whom the proceedings are brought makes an application to the court under this section, the court may, in such circumstances as may be specified in rules of court, give leave for the grandparent to be made a party to the proceedings.
- (2) Rules of court shall make provision as to the circumstances in which the court may give leave under subsection (1) above.
- (3) In this section “the court” includes a single justice.]

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Textual Amendments

F165 S. 32C inserted by Children and Young Persons (Amendment) Act 1986 (c. 28, SIF 20), ss. 3(2), 6 and repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), Sch. 15

33 F166

Textual Amendments

F166 S. 33 repealed by Legal Aid Act 1974 (c. 4, SIF 77:1), Sch. 5 Pt. I

Transitional modifications of Part I for persons of specified ages

34 Transitional modifications of Part I for persons of specified ages.

- (1) The Secretary of State may by order provide—
- (a) that any reference to a child in section 4, [F167 13(2) or 28(4) or (5)] [F167 or 13(2)] of this Act shall be construed as excluding a child who has attained such age as may be specified in the order;
 - (b) that any reference to a young person in section 5 of this Act (except subsection (8)) shall be construed as including a child, or excluding a young person, who has attained such age as may be so specified;
 - (c) that any reference to a young person in section 5(8), 7(7), 7(8), 9(1), 23(1) or 29(1) of this Act shall be construed as including a child who has attained such age as may be so specified;
 - (d) F168
 - (e) that [F169 section 23(2) or (3)] [F169 section 23(4) to (6)] of this Act shall have effect as if the references to a young person excluded a young person who has not attained such age as may be so specified;
 - (f) F170
- (2) In the case of a person who has not attained the age of seventeen but has attained such lower age as the Secretary of State may by order specify, no proceedings [F171 under section 1 of this Act or] for an offence shall be begun in any court unless the person proposing to begin the proceedings has, in addition to any notice falling to be given by him to a local authority in pursuance of section [F171 2(3) or] 5(8) of this Act, given notice of the proceedings to a probation officer for the area for which the court acts; [F171 and accordingly in the case of such a person the reference in section 1(1) of this Act to the said section 2(3) shall be construed as including a reference to this subsection].
- (3) In the case of a person who has attained such age as the Secretary of State may by order specify, an authority shall, without prejudice to subsection (2) of section 9 of this Act, not be required by virtue of subsection (1) of that section to make investigations or provide information which it does not already possess with respect to his home surroundings if, by direction of the justices or probation and after-care committee acting for any relevant area, arrangements are in force for information with respect to his home surroundings to be furnished to the court in question by a probation officer.

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- (4) Except in relation to section 13(2) of this Act, references to a child in subsection (1) of this section do not include references to a person under the age of ten.
- (5) ^{F172}
- (6) Without prejudice to the generality of section 69(4) of this Act, an order under this section may specify different ages for the purposes of different provisions of this Act specified in the order.
- (7) A draft of any order proposed to be made under this section shall be laid before Parliament and, in the case of an order of which the effect is that the reference to a child in section 4 of this Act includes a child who has attained an age of more than twelve, shall not be made unless the draft has been approved by a resolution of each House of Parliament.

Textual Amendments

F167 Words “or 13(2)” substituted (*prosp.*) for “13(2) or 28(4) or (5)” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 28(a), **Sch. 14 para. 1(1)**

F168 S. 34(1)(d) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**

F169 Words “section 23(4) to (6)” substituted (*prosp.*) for “section 23(2) or (3)” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 28(b), **Sch. 14 para. 1(1)**

F170 S. 34(1)(f) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), **Sch. 16**

F171 Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**

F172 S. 34(5) repealed by Criminal Law Act 1977 (c. 45, SIF 39:1), **Sch. 13**

PART II

ACCOMMODATION ETC. FOR CHILDREN IN CARE, AND FOSTER CHILDREN

Community homes

35— ^{F173}
45.

Textual Amendments

F173 Ss. 35–45, 47–50 repealed by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 6**

46 Discontinuance of approved schools etc. on establishment of community homes.

- (1) If in the case of any approved school, [^{F174}or remand home within the meaning of the ^{M30}Criminal Justice Act 1948 or approved probation hostel or approved probation home within the meaning of the ^{M31}Powers of Criminal Courts Act 1973] (hereafter in this section referred to as an “approved institution”) it appears to the Secretary of State that in consequence of the establishment of community homes for a planning area the institution as such is no longer required, he may by order provide that it shall cease to be an approved institution on a date specified in the order.

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(2) The provisions of Schedule 3 to this Act shall have effect in relation to institutions which are, or by virtue of this section have ceased to be, approved institutions.

Textual Amendments

F174 Words substituted by Powers of Criminal Courts Act 1973 (c. 62, SIF 39:1), **Sch. 5 para. 36**

Modifications etc. (not altering text)

C22 S. 46 amended by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para. 17**

Marginal Citations

M30 1948 c. 58(39:1).

M31 1973 c. 62(39:1).

47— **F175**
50.

Textual Amendments

F175 Ss. 35–45, 47–50 repealed by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 6**

51 **F176**

Textual Amendments

F176 Ss. 51, 52(1)–(3) repealed by Foster Children Act 1980 (c. 6, SIF 20), **Sch. 3**

52 (1) **F177**

^{X5}(4) Section 37 of the ^{M32} Adoption Act 1958 (which defines “protected child” for the purposes of Part IV of that Act) shall have effect subject to the following modifications:—

- (a) in paragraph (a) of subsection (1) (which refers to arrangements for placing a child in the care of a person who is not a parent, guardian or relative of his) after the words “relative of his” there shall be inserted the words “but who proposes to adopt him” ;
- (b) in subsection (1) (which among other matters excludes a foster child from the definition of “a protected child”) the words “but is not a foster child within the meaning of Part I of the Children Act 1958” shall be omitted ; and
- (c) in subsection (2) (which excludes certain children from the definition of protected child, including children only temporarily in the care and possession of a person under such arrangements as are referred to in subsection (1)(a) of that section) the words from “by reason” to “that subsection, nor” shall be omitted.

(5) **F178**

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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Editorial Information

X5 The text of s. 52(4) 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.

Textual Amendments

F177 Ss. 51, 52(1)–(3) repealed by Foster Children Act 1980 (c. 6, SIF 20), **Sch. 3**

F178 Ss. 52(5), 53–55 repealed by Foster Children Act 1980 (c. 6, SIF 20), **Sch. 3**

Marginal Citations

M32 1958 c. 5. (7 & 8 Eliz. 2.)

53— **F179**
55.

Textual Amendments

F179 Ss. 52(5), 53–55 repealed by Foster Children Act 1980 (c. 6, SIF 20), **Sch. 3**

56, 57. **F180**

Textual Amendments

F180 Ss. 56, 57 repealed by (E.W.) Foster Children Act 1980 (c. 6, SIF 20), **Sch. 3** and (S.) Foster Children (Scotland) Act 1984 (c. 56, SIF 20), **Sch. 3**
Words "49 and the said sections" in s. 57(4) expressed to be repealed (3.2.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1995/127, art. 2(1), **Sch.1** Appendix C

58, 59. **F181**

Textual Amendments

F181 Ss. 58, 59 repealed by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 6**

PART III

MISCELLANEOUS AND GENERAL

60 **F182**

Textual Amendments

F182 S. 60 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37(1), **Sch. 2**

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61 **F183**

Textual Amendments

F183 S. 61 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(2), **Sch. 9**

62— **F184**
64A.

Textual Amendments

F184 Ss. 62–64A, 65(1) repealed by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 6**

Financial provisions

65 Grants to voluntary organisations etc.

- (1) **F185**
- (2) **F186**

(3) Where an order has been made under section 46 of this Act in relation to an approved institution within the meaning of that section and no ^{F187}part of the premises occupied by the institution forms part of a controlled or assisted community home.]

(4) No grant shall be made under subsection (3) of this section in respect of a liability relating to an institution unless it appears to the Secretary of State that, on or within a reasonable time after the date specified in the order referred to in that subsection, the premises of the institution are to be used for a purpose which is of benefit to children; and any grant made under that subsection shall be subject to such conditions as the Secretary of State may with the approval of the Treasury determine, including conditions with respect to the repayment in whole or in part of the grant, either by the person to whom the grant was made or by some other person who, before the grant was made, consented to accept the liability.

(5) Any sums received by the Secretary of State by virtue of any such condition as is referred to in subsection (4) of this section shall be paid into the Consolidated Fund.

Textual Amendments

F185 Ss. 62–64A, 65(1) repealed by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 6**

F186 S. 65(2) repealed by Children Act 1975 (c. 72, SIF 49:9, 10), **Sch. 4 Pt. X**

F187 Words substituted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **Sch. 2 para. 18**

66 Increase of rate support grants.

- (1) The power to make an order under [^{F188}section 4(1) of the ^{M33}Local Government Act 1974] increasing the amounts fixed by a rate support grant order for a particular year shall be exercisable, in accordance with subsection (2) of this section, in relation to

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any rate support grant order made before the date of the coming into operation of any provision of this Act (in this section referred to as “the relevant provision”) for a grant period ending after that date.

- (2) Without prejudice to [^{F188}subsection (6) of the said section 4] (which empowers an order under subsection (1) of that section to vary the matters prescribed by a rate support grant order), an order under subsection (1) of that section made by virtue of this section may be made for such year or years comprised in the grant period concerned as may be specified in the order and in respect of the year or each of the years so specified shall increase the amounts fixed by the relevant rate support grant order as the aggregate amounts of the rate support grants and any elements of the grants for that year to such extent and in such a manner as may appear to [^{F189}the Secretary of State] to be appropriate, having regard to any additional expenditure incurred or likely to be incurred by local authorities in consequence of the coming into operation of the relevant provision.
- (3) In this section “grant period” means the period for which a rate support grant order is made.
- (4) There shall be defrayed out of moneys provided by Parliament any increase in rate support grants attributable to this Act.

Textual Amendments
F188 Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), **s. 17(2)(a)**
F189 Words substituted by virtue of [S.I. 1970/1681](#), **arts. 2(1), 6(3)**

Marginal Citations
M33 [1974 c. 7\(81:1\)](#).

67 Administrative expenses.

Any administrative expenses of the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.

Supplemental

68 ^{F190}

Textual Amendments
F190 [S. 68](#) repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **Sch. 30**

69 Orders and regulations etc.

- (1) Any power conferred on the Secretary of State by this Act to make an order or regulations, except an order under section 25, . . . ^{F191} or paragraph 23 or 24 of Schedule 4, shall be exercisable by statutory instrument; and any statutory instrument made in pursuance of this subsection, except an instrument containing only regulations under paragraph 8(2) of Schedule 3 or an order under section 1(6), 26, 46, , ^{F191} 72(2)

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or 73(2), or paragraph 11(2) of Schedule 3, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (2) A statutory instrument containing regulations under subsection (4) of section 5 or an order under section 34 of this Act shall not be subject to annulment as aforesaid, but no such regulations or order shall be included in a statutory instrument containing provisions which do not require approval in pursuance of the said subsection (4) or, as the case may be, to which subsection (7) of the said section 34 does not apply.
- (3) An order made or directions given by the Secretary of State under any provision of this Act, except an order under section 7(5), may be revoked or varied by a subsequent order or subsequent directions under that provision.
- (4) Any order or regulations made by the Secretary of State under this Act may—
- (a) make different provision for different circumstances;
 - (b) provide for exemptions from any provisions of the order or regulations; and
 - (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the order or regulations.
- [^{F192}(5) The power conferred by subsection (4)(c) of this section shall be construed in its application to orders under section 73(2) of this Act as authorising the inclusion in any such order of a provision directing that—
- (a) the words “child or” wherever occurring in section 55 of the ^{M34}Children and young Persons Act 1933 (power to order parent or guardian to pay fine etc.); and
 - (b) the words from “except” to the end of section 17(4) of the ^{M35}Criminal Justice Act 1982 (limit of aggregate number of hours for which an attendance centre order may require an offender under 14 years of age to attend at an attendance centre),
- shall cease to have effect on a day specified in the order.]

Textual Amendments

F191 Words repealed by [Child Care Act 1980 \(c. 5, SIF 20\)](#), s. 89, [Sch. 6](#)

F192 [S. 69\(5\)](#) added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 14 para. 28](#)

Marginal Citations

M34 [1933 c. 12\(20\)](#).

M35 [1982 c. 48\(39:1\)](#).

70 Interpretation and ancillary provisions.

- (1) In this Act, unless the contrary intention appears, the following expressions have the following meanings:—
- “the ^{M36}Act of 1933” means the Children and Young Persons Act 1933;
 - “the ^{M37}Act of 1963” means the Children and Young Persons Act 1963;
 - “approved school order”, “guardian” and “place of safety” have the same meanings as in the Act of 1933;
 - [^{F193} “care order” has the meaning assigned to it by section 20 of this Act;]
 - “child”, except in Part II (including Schedule 3) and sections 27, 63, 64 and 65 of this Act, means a person under the age of fourteen, and in that Part

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(including that Schedule) and those sections means a person under the age of eighteen and a person who has attained the age of eighteen and is the subject of a care order;

F194

[^{F193} “interim order” has the meaning assigned to it by section 20 of this Act;]

“local authority” [^{F195}except in relation to proceedings under section 1 of this Act instituted by a local education authority, means the council of a non-metropolitan county or of a metropolitan district] or London borough or the Common Council of the City of London;

[^{F196} “local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989)]

“petty sessions area” has the same meaning as in [^{F197}the ^{M38}Magistrates’ Courts Act 1980] except that, in relation to a juvenile court constituted for the metropolitan area within the meaning of Part II of Schedule 2 to the Act of 1963, it means such a division of that area as is mentioned in paragraph 14 of that Schedule;

F194

“police officer” means a member of a police force;

F194

“reside” means habitually reside, and cognate expressions shall be construed accordingly except in section [^{F198}12(4) and (5)][^{F198}12B(1) and (2)] of this Act;

“supervision order”, “supervised person” and “supervisor” have the meanings assigned to them by section 11 of this Act;

F194

“young person” means a person who has attained the age of fourteen and is under the age of seventeen;

and it is hereby declared that, in the expression “care or control”, “care” includes protection and guidance and “control” includes discipline.

[^{F199}(1A) Where, in the case of a child whose father and mother were not married to each other at the time of his birth, an order of any court is in force giving the right to the actual custody of the child to the father, any reference in this Act to the parent of the child includes, unless the contrary intention appears, a reference to the father.

In this subsection “actual custody”, in relation to a child, means actual possession of his person.]

[^{F200}(1B) In subsection (1A) of this section the reference to a child whose father and mother 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 and “actual custody”, in relation to a child, means actual possession of his person.]

(2) Without prejudice to any power apart from this subsection to bring proceedings on behalf of another person, any power to make an application which is exercisable by a child or young person by virtue of section 15(1), [^{F201}21(2), 22(4) or (6) or 28(5)] of this Act shall also be exercisable on his behalf by his parent or guardian; and in this subsection “guardian” includes any person who was a guardian of the child or young person in question at the time when any supervision order, [^{F201}care order or warrant] to which the application relates was originally made.

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- (3) In section 99(1) of the Act of 1933 (under which the age which a court presumes or declares to be the age of a person brought before it is deemed to be his true age for the purposes of that Act) the references to that Act shall be construed as including references to this Act.
- (4) Subject to the following subsection, any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment including this Act.
- (5) Any reference in this Act to an enactment of the Parliament of Northern Ireland shall be construed as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament for the time being in force which re-enacts the said enactment with or without modifications.

Textual Amendments

- F193** Definitions repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**
- F194** Definitions repealed by Child Care Act 1980 (c. 5, SIF 20), s. 89, **Sch. 6**
- F195** Words substituted by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 23 para. 16**
- F196** Definition inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 29(a), **Sch. 14 para. 1(1)**
- F197** Words “substituted by Magistrates” Courts Act 1980 (c. 43, SIF 82), **s. 154(2) Sch. 7 para. 85**
- F198** “12B(1) and (2)” substituted (*prosp.*) for “12(4) and (5)” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 29(b), **Sch. 14 para. 1(1)**
- F199** S. 70(1A) inserted by Family Law Reform Act 1987 (c. 42, SIF 49:7), **s. 8(1)**
- F200** S. 70(1B) inserted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 26**
- F201** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108(2)(6)(7), Sch. 14 para. 27(4), **Sch. 15**

Marginal Citations

- M36** 1933 c. 12(20).
- M37** 1963 c. 37(20).
- M38** 1980 c. 43(82).

71 Application to Isles of Scilly.

This Act shall have effect, in its application to the Isles of Scilly, with such modifications as the Secretary of State may by order specify.

72 Transitional provisions, minor amendments and repeals etc.

- (1) The transitional provisions and savings set out in Part I of Schedule 4 to this Act shall have effect.
- (2) The transitional provisions set out in Part II of Schedule 4 to this Act shall have effect until such day as the Secretary of State may by order specify for the purposes of this subsection (being the day on and after which those provisions will in his opinion be unnecessary in consequence of the coming into force of provisions of the ^{M39}Social Work (Scotland) Act 1968) and shall be deemed to have been repealed on that day by an Act of Parliament passed after this Act.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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- ^{X6}(3) The enactments mentioned in Schedule 5 to this Act shall have effect subject to the amendments specified in that Schedule (which are minor amendments and amendments consequential on the provisions of this Act).
- ^{X6}(4) Subject to subsection (1) of this section, the enactments mentioned in the first and second columns of Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (5) ^{F202}

Editorial Information

X6 The text of s. 72(3)(4) 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.

Textual Amendments

F202 S. 72(5) repealed by [Foster Children Act 1980 \(c. 6, SIF 20\)](#), [Sch. 3](#)

Marginal Citations

M39 1968 c. 49(81:3).

73 Citation, commencement and extent.

- (1) This Act may be cited as the Children and Young Persons Act 1969, and this Act and the Children and Young Persons Acts 1933 to 1963 may be cited together as the Children and Young Persons Acts 1933 to 1969.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed under this subsection for different provisions of this Act or for different provisions of this Act so far as they apply to such cases only as may be specified in the order.
- (3) Without prejudice to the generality of section 69(4) of this Act, an order under the preceding subsection may make such transitional provision as the Secretary of State considers appropriate in connection with the provisions brought into force by the order, including such adaptations of those provisions and of any other provisions of this Act then in force as appear to him appropriate for the purposes or in consequence of the operation of any provision of this Act before the coming into force of any other provision of this Act or of a provision of the ^{M40}Social Work (Scotland) Act 1968.
- (4) This section and the following provisions only of this Act extend to Scotland, that is to say—
- sections 10(1) and (2), [^{F203}32(1), (3) and (4)] [^{F203}32(1) to (1C) and (2A) to (4)], 56 and 57(1);
 - section 72(2) and Part II of Schedule 4;
 - paragraphs 25, 26, 33, 35, 38, 42, 43, 53, 54 and 57 to 83 of Schedule 5 and section 72(3) so far as it relates to those paragraphs;
 - section 72(4) and Schedule 6 so far as they relate to the ^{M41}Merchant Shipping Act 1894, the ^{M42}Superannuation (Miscellaneous Provisions) Act 1948, sections 10, 53, 55 and 59 of the Act of 1963, the ^{M43}Family Allowances Act 1965 and the ^{M44}Social Work (Scotland) Act 1968.

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(5) This section and the following provisions only of this Act extend to Northern Ireland, that is to say—

- (a) sections 25 and 32;
- (b) section 72(3) and Schedule 5 so far as they relate to section 29 of the ^{M45}Criminal Justice Act 1961 and provisions of the Social Work (Scotland) Act 1968 which extend to Northern Ireland; and
- (c) section 72(4) and Schedule 6 so far as they relate to section 83 of the Act of 1933, paragraph 13 of Schedule 2 to the ^{M46}Children and Young Persons (Scotland) Act 1937, section 29 of the Criminal Justice Act 1961, sections 10(1) and (2), 53(1) and 65(5) of, and paragraphs 27, 34 and 50 of Schedule 3 to, the Act of 1963 and sections 73(2), 76(1) and (2) and 77(1)(b) of the Social Work (Scotland) Act 1968;

F204

(6) Section 26 of this Act and this section, and section 72(4) of this Act and Schedule 6 to this Act so far as they relate to paragraph 13 of Schedule 2 to the Children and Young Persons (Scotland) Act 1937 and section 53(1) of, and paragraph 34 of Schedule 3 to, the Act of 1963, extend to the Channel Islands and the Isle of Man, and section ^{F205}32(1) ^{F206}[^{F206}, 1A]]^{F205}32(1) to (1C)] and (4) of this Act and this section extend to the Channel Islands.

(7) It is hereby declared that the provisions of sections 69 and 70 of this Act extend to each of the countries aforesaid so far as is appropriate for the purposes of any other provisions of this Act extending to the country in question.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 73(2) exercised: [S.I. 1969/1552](#), 1565, 1970/1498, 1883 and 1971/588

Textual Amendments

F203 “32(1) to (1C) and (2A) to (4)” substituted (*prosp.*) for “32(1), (3) and (4)” by [Children Act 1989](#) (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 30(a), [Sch. 14 para. 1\(1\)](#)

F204 Words repealed by [Northern Ireland Constitution Act 1973](#) (c. 36, SIF 29:3), [Sch. 6 Pt. I](#)

F205 “32(1) to (1C)” substituted (*prosp.*) for “32(1), (1A)” by [Children Act 1989](#) (c. 41, SIF 20), s. 108(2)(4)(6), Sch. 12 para. 30(b), [Sch. 14 para. 1\(1\)](#)

F206 Words inserted by [Health and Social Services and Social Security Adjudications Act 1983](#) (c. 41, SIF 113:3), [Sch. 2 para. 19](#)

Modifications etc. (not altering text)

C23 [S. 73\(2\)\(3\)](#) extended by [Powers of Criminal Courts Act 1973](#) (c. 62, SIF 39:1), [Sch. 4 para 2\(1\)](#)

Marginal Citations

M40 1968 c. 49(81:3).

M41 1894 c. 60(111).

M42 1948 c. 33(101A:1).

M43 1965 c. 53.

M44 1968 c. 49(81:3).

M45 1961 c. 39(39:1).

M46 1937 c. 37(20).

Status:

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