

Status: Point in time view as at 01/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons Act 1969, Cross Heading: Use of premises as homes for children in care. (See end of Document for details)

SCHEDULES

SCHEDULE 3

APPROVED SCHOOLS AND OTHER INSTITUTIONS

Modifications etc. (not altering text)

- C1** Sch. 3 amended by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 2 para. 17](#)

Use of premises as homes for children in care

- 3 (1) If on the day specified for the purposes of section 7(5) of this Act premises are used for the purposes of an approved school, then during the period (in this Schedule referred to, in relation to an approved school, as “the interim period”) beginning immediately after that day and ending on the day on which the school ceases to be an approved school (whether by virtue of a section 46 order or otherwise) those premises may be used for the accommodation and maintenance of children in the care of local authorities.
- (2) If during the interim period the premises of an approved school are used for the accommodation and maintenance of children in the care of a local authority then, during that period,
- (a) any reference in section 21(1) or section 31 of this Act to a community home includes a reference to those premises; and
- (b) for the reference in section 18(1)(c) of the ^{M1}Criminal Justice Act 1961 (directions of Secretary of State as to management of approved schools) to persons under the care of the managers there shall be substituted a reference to the children in the care of local authorities who are accommodated and maintained in those premises.
- (3) At the request of the managers of an approved school the Secretary of State may, at any time during the interim period, give a direction—
- (a) that so much as may be specified in the direction of any rules made under paragraph 1(1) of Schedule 4 to the Act of 1933 (approved school rules) and of any rules made by the managers and approved by him under paragraph 1(2) of that Schedule shall no longer apply in relation to that school; and
- (b) that, in place of those rules, so much as may be specified in the direction of any regulations made under section 43 of this Act shall apply, subject to such adaptations and modifications as may be so specified, in relation to the approved school as if it were a community home.
- (4) If the effect of the application, by a direction under sub-paragraph (3) above, of any provision of regulations made under section 43 of this Act in relation to an approved school would be to impose any duty or confer any power on a local authority in

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relation to that school, the Secretary of State shall not give a direction applying that provision except with the consent of the local authority concerned.

Marginal Citations

M1 1961 c. 39(39:1).

- 4 (1) If on the day specified for the purposes of section 7(5) of this Act a remand home was designated under section 11 of the Act of 1963 as a classifying centre then, during the period beginning immediately after that day and ending on the date specified in a section 46 order relating to that home, the home may be used for the accommodation and maintenance of children in the care of local authorities.
- (2) In this Schedule “classifying centre” means a remand home designated as mentioned in sub-paragraph (1) of this paragraph and, in relation to a classifying centre, the period specified in that sub-paragraph is referred to as “the interim period”.
- (3) During the interim period—
- (a) the expenses of a local authority in providing and maintaining a classifying centre in relation to the whole or part of the expenses of which a direction has been given by the Secretary of State under section 11(3) of the Act of 1963 shall be treated for the purposes of section 104 of the Act of 1933 as if they were expenses incurred by the authority as managers of an approved school;
 - (b) subsections (4) and (5) of section 106 of the Act of 1933 shall apply in relation to a classifying centre as they apply in relation to an approved school the managers of which are a local authority; and
 - (c) any reference in section 21(1) or section 31 of this Act to a community home includes a reference to a classifying centre.
- 5 (1) Where a section 46 order is made in relation to an approved school or approved probation hostel or home and, in a regional plan approved by the Secretary of State, the whole or any part of the premises of the institution is designated as a controlled or assisted community home, the premises so designated may, after the specified date, be used for the purpose specified in the regional plan.
- (2) Without prejudice to any power to vary the provisions of a trust deed relating to a community home consisting of premises designated as mentioned in sub-paragraph (1) of this paragraph, the purpose referred to in that sub-paragraph shall be deemed to be included among the purposes for which the premises are held in accordance with a trust deed relating to that home.
- 6 (1) Where a section 46 order is made in relation to an approved institution (other than an institution provided by a local authority) and, in a regional plan approved by the Secretary of State, the whole or any part of the premises of the institution is designated as a community home to be provided by a local authority, then if the Secretary of State is satisfied that the premises so designated were to a substantial extent provided with the assistance of grants under section 104 of the Act of 1933 or [F1 section 20 of the Probation Service Act 1993][F2 or section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000][F3 or under sections 3, 6 or 13 of the Offender Management Act 2007], he may, by an authorisation in writing under this paragraph, authorise the transfer of the premises so designated to that local authority.
- (2) The transfer of any premises in pursuance of an authorisation under this paragraph—

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- (a) shall be on such terms, as to payment and other matters, as may be agreed between the local authority concerned and the trustees or other persons in whom the premises are vested and, if the authorisation so provides, as may be approved by the Secretary of State;
 - (b) shall not take effect before the specified date; and
 - (c) shall operate to vest the premises transferred in the local authority free from any charitable trust and from any other obligation requiring the use of the premises for the purposes of an approved institution.
- (3) Before giving an authorisation under this paragraph authorising the transfer of any premises belonging to a charity or otherwise held on charitable trusts, the Secretary of State shall consult the [^{F4}Charity Commission] .

Textual Amendments

- F1** Words in Sch. 3 para. 6(1) substituted (5.2.1994) by virtue of 1993 c. 47, ss. 32, 33, **Sch. 3 para. 3(4)(a)**.
- F2** Words in Sch. 3 para. 6(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(2)**; S.I. 2001/919, **art. 2(f)(ii)**
- F3** Words in Sch. 3 para. 6(1) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 3(3)(a)**
- F4** Words in Sch. 3 para. 6(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 53**; S.I. 2007/309, art. 2, Sch.

- 7 The provisions of paragraphs 3 to 6 of this Schedule shall have effect notwithstanding anything in the law relating to charities or in any deed or other instrument regulating the purposes for which any premises may be used.

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