



# Child Care Act 1980

## 1980 CHAPTER 5

### PART VI

#### VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

##### *Transfer of parental rights and duties in relation to children in care of voluntary organisations*

#### **64 Transfer of parental rights and duties to voluntary organisation**

- (1) Where it appears to a local authority as respects a child in the care of a voluntary organisation which is an incorporated body—
  - (a) that the child is not in the care of any local authority; and
  - (b) that a condition specified in section 3(1) of this Act is satisfied; and
  - (c) that it is necessary in the interests of the welfare of the child for the parental rights and duties to be vested in the organisation,the authority may, subject to subsections (5) and (6) below, resolve that there shall vest in the organisation the parental rights and duties with respect to that child.
- (2) While a resolution under this section is in force the parental rights and duties shall vest in the organisation in whose care the child is when the resolution is passed.
- (3) If, immediately before the resolution is passed, the parental rights and duties are vested in the parent in relation to whom the resolution is passed jointly with any other person, then on the passing of the resolution the parental rights and duties shall vest jointly in that other person and the organisation in whose care the child is.
- (4) In determining for the purposes of subsection (1) above whether the condition specified in section 3(1)(b)(i) of this Act is satisfied, if the whereabouts of any parent of the child have remained unknown for twelve months, that parent shall be deemed to have abandoned the child.
- (5) A resolution under subsection (1) above may not be passed by a local authority in respect of any child unless—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the child is living in the area of the authority either in a voluntary home or with foster parents with whom he has been boarded by the organisation in whose care he is; and
  - (b) that organisation has requested the authority to pass the resolution.
- (6) The parental rights and duties which may vest in an organisation by virtue of this section do not include—
- (a) the right to consent or refuse to consent to the making of an application under section 18 of the Adoption Act 1976 (orders freeing a child for adoption in England and Wales) or section 18 of the Adoption (Scotland) Act 1978 (orders freeing a child for adoption in Scotland) and
  - (b) the right to agree or refuse to agree to the making of an adoption order or an order under section 55 of the Adoption Act 1976 (orders in England and Wales authorising adoption abroad) or section 49 of the Adoption (Scotland) Act 1978 (orders in Scotland authorising adoption abroad),
- and regulations made under section 62 of this Act shall apply to the emigration of a child notwithstanding that the parental rights and duties relating to the child are vested in the voluntary organisation.
- (7) Section 5(2) of this Act shall apply in relation to a resolution under subsection (1) above as if it were a resolution under section 3 of this Act.

#### **65 Duty of local authority to assume parental rights and duties**

- (1) Where the parental rights and duties with respect to a child are by virtue of a resolution under section 64 of this Act vested in a voluntary organisation, then, if it appears to the local authority for the area in which the child is living that, having regard to the interests of the welfare of the child, it is necessary that the parental rights and duties should no longer be vested in the organisation, the local authority shall resolve that there shall vest in them the parental rights and duties relating to the child.
- (2) The local authority shall within seven days of passing a resolution under subsection (1) above by notice in writing inform the organisation and each parent, guardian or custodian of the child whose whereabouts are known to them that the resolution has been passed.

#### **66 Effect of resolutions under ss. 64 and 65**

- (1) A resolution under subsection (1) of section 64 of this Act shall cease to have effect on the passing of a resolution under subsection (1) of section 65 of this Act.
- (2) Section 8 of this Act shall have effect in relation to a resolution under subsection (1) of section 64 of this Act as it has effect in relation to a resolution under section 3 of this Act.
- (3) A resolution under subsection (1) of section 65 of this Act shall be deemed to be a resolution under section 3 of this Act except that sections 3(2) to (7), 4(1) and 5(4) of this Act shall not apply.

#### **67 Appeals by parents etc.**

- (1) Subsections (2) to (7) of section 3 of this Act shall apply to a resolution under section 64 of this Act as they apply to a resolution under the said section 3, with the

substitution for the reference in subsection (2) to the vesting of parental rights and duties in the local authority of a reference to the vesting of parental rights and duties in the voluntary organisation.

- (2) An appeal may be made—
- (a) where the complaint relates to a resolution under section 64 of this Act, by a person deprived of parental rights and duties by the resolution, or
  - (b) where the complaint relates to a resolution under section 65 of this Act, by a person who but for that resolution and an earlier resolution under section 64 would have parental rights and duties,
- to a juvenile court having jurisdiction in the area of the authority which passed the resolution, on the ground that—
- (i) there was no ground for the making of the resolution, or
  - (ii) that the resolution should in the interests of the child be determined.
- (3) An appeal shall lie to the High Court against the decision of a juvenile court under this section.
- (4) Section 7 of this Act shall apply in relation to proceedings under this section.