



Foster Children (Scotland) Act 1984

1984 CHAPTER 56

Disqualification for fostering

7 Persons disqualified from keeping foster children.

(1) A person shall not maintain a foster child if—

- (a) an order removing a child from his care has been made against him under this Act or any Act repealed by this Act or under section 12 of the ^{M1}Foster Children Act 1980;
- (b) an order has been made under the ^{M2}Children and Young Persons Act 1933, the ^{M3}Children and Young Persons Act 1969, or the ^{M4}Children and Young Persons (Scotland) Act 1937, or a supervision requirement has been made under the ^{M5}Social Work (Scotland) Act 1968 [^{F1}or under section 70 of the Children (Scotland) Act 1995] and by virtue of the order or requirement a child was removed from his care;
- [^{F2}(ba) by virtue of a compulsory supervision order or an interim compulsory supervision order, a child was removed from the person's care;]
- (c) he has been convicted of any offence specified in Schedule 1 to the said Act of 1933 or Schedule 1 to the [^{F3}Criminal Procedure (Scotland) Act 1995], or has been placed on probation or discharged absolutely or conditionally for any such offence;
- [^{F4}(ca) the person has been convicted of a relevant offence;]
- (d) his rights and powers with respect to a child have been vested in a local authority under section 2 of the ^{M6}Children Act ^{M7}1948 or under section 16 of the Social Work (Scotland) Act 1968 or in a local authority in England or Wales under the said section 2 or section 3 of the ^{M8}Child Care Act 1980;
- [^{F5}(dd) his parental rights and parental responsibilities (within the meaning of the Children (Scotland) Act 1995) have been transferred, by an order under section 86(1) of that Act, to a local authority;]
- [^{F6}(e)]
- (f) an order has been made under section 43 of the ^{M9}Adoption Act ^{M10}1958, section 34 of the Adoption Act 1976 or section 34 of the ^{M11}Adoption

Changes to legislation: There are currently no known outstanding effects for the Foster Children (Scotland) Act 1984, Cross Heading: Disqualification for fostering. (See end of Document for details)

(Scotland) Act 1978 for the removal of a protected child who was being kept or was about to be received by him, ^{F7}...

- (g) he is disqualified from fostering a child privately (within the meaning of the Children Act 1989) by regulations made under section 68 of that Act,
- (h) [^{F8} all his parental responsibilities and parental rights have been extinguished by a permanence order under section 80 of the Adoption and Children (Scotland) Act 2007 (asp 4)]

unless he has disclosed that fact to the local authority and obtained their written consent.

- (2) Where subsection (1) applies to any person, otherwise than by virtue of this subsection, it shall apply also to any other person who lives in the same premises as he does or who lives in premises at which he is employed.

[^{F9}(3) A person who lives in the same premises as a barred person shall not maintain a foster child.

- (4) In subsection (3) (and in section 15(2A)), “barred person” means a person who is barred from regulated work with children (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)).]

[^{F10}(5) In this section, “compulsory supervision order” and “interim compulsory supervision order” have the meanings given by sections 83 and 86 of the Children’s Hearings (Scotland) Act 2011 (asp 1) .]

[^{F11}(6) In this section, “relevant offence” means any of the following offences when committed against, or in relation to, a child—

- (a) an offence under section 136, 140 or 144 of the Health and Care Act 2022 (virginity testing),
- (b) an offence under section 137, 141 or 145 of that Act (offering to carry out virginity testing),
- (c) an offence under section 138, 142 or 146 of that Act (aiding or abetting etc a person to carry out virginity testing),
- (d) an offence under section 148, 152 or 156 of that Act (carrying out hymenoplasty),
- (e) an offence under section 149, 153 or 157 of that Act (offering to carry out hymenoplasty), and
- (f) an offence under section 150, 154 or 158 of that Act (aiding or abetting etc a person to carry out hymenoplasty).]

Textual Amendments

- F1** Words in s. 7(1)(b) inserted (1.4.1997) by 1995 c. 36 , s. 105(4) , **Sch. 4 para. 35(4)(a)** ; S.I. 1996/3201 , **art. 3(7)** (as amended by S.I. 1997/744 , **arts. 2 , 3**)
- F2** Words in s. 7(1)(ba) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 5(2)(a)**
- F3** Words in s. 7(1)(c) substituted (1.4.1996) by 1995 c. 40 , ss. 5 , 7(2) , **Sch. 4 para. 53(1)(2)**
- F4** S. 7(1)(ca) inserted (18.11.2022) by The Health and Care Act 2022 (Further Consequential Amendments) Regulations 2022 (S.I. 2022/1200), regs. 1(1), **3(a)**
- F5** S. 7(1)(dd) inserted (1.4.1997) by 1995 c. 36 , s. 105(4) , **Sch. 4 para. 35(4)(b)** ; S.I. 1996/3201 , **art. 3(7)** (as amended by S.I. 1997/744 , **arts. 2 , 3**)
- F6** S. 7(1)(e) repealed (1.4.2002) by 2001 asp 8 , s. 80(1) , **Sch. 4** ; S.S.I. 2002/162 art. 2(g)(i) (subject to arts 3-13)

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- F7** Word in s. 7(1) repealed (27.1.2010) by Adoption and Children (Scotland) Act 2007 (Modification of Enactments) Order 2010 (S.S.I. 2010/21) , art. 1 , **Sch. para. 3(a)**
- F8** S. 7(1)(h) added (27.1.2010) by Adoption and Children (Scotland) Act 2007 (Modification of Enactments) Order 2010 (S.S.I. 2010/21), art. 1, **Sch. para. 3(b)**
- F9** S. 7(3)(4) inserted (28.2.2011) by Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), s. 101(2), **Sch. 4 para. 10** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a)
- F10** S. 7(5) inserted (24.6.2013) by The Children's Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 5(2)(b)**
- F11** S. 7(6) inserted (18.11.2022) by The Health and Care Act 2022 (Further Consequential Amendments) Regulations 2022 (S.I. 2022/1200), regs. 1(1), **3(b)**

Marginal Citations

- M1** 1980 c. 6 .
- M2** 1933 c. 12 .
- M3** 1969 c. 54 .
- M4** 1937 c. 37 .
- M5** 1968 c. 49 .
- M6** 1948 c. 43 .
- M7** 1968 c. 49 .
- M8** 1980 c. 5 .
- M9** 1958 c. 5 .
- M10** 1976 c. 36 .
- M11** 1978 c. 28 .

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