



# Children Act 1989

## 1989 CHAPTER 41

### PART VII

#### VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

#### **59 Provision of accommodation by voluntary organisations.**

- (1) Where a voluntary organisation provide accommodation for a child, they shall do so by—
- (a) placing him (subject to subsection (2)) with —
    - (i) a family;
    - (ii) a relative of his; or
    - (iii) any other suitable person,on such terms as to payment by the organisation and otherwise as the organisation may determine [<sup>F1</sup>(subject to section 49 of the Children Act 2004)];
  - [<sup>F2</sup>(aa) maintaining him in [<sup>F3</sup>“a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000”];]
  - (f) making such other arrangements (subject to subsection (3)) as seem appropriate to them.

[<sup>F4</sup>(1A) Where under subsection (1)(aa) a [<sup>F5</sup>“voluntary organisation”] maintains a child in a home provided, equipped and maintained by [<sup>F6</sup>“an appropriate national authority”] under section 82(5), it shall do so on such terms as [<sup>F7</sup>“that national authority”] may from time to time determine.]

- (2) The [<sup>F8</sup>“appropriate national authority”] may make regulations as to the placing of children with foster parents by voluntary organisations [<sup>F9</sup>“and the regulations may, in particular, make provision which (with any necessary modifications) is similar to the provision that may be made under section 23(2)(a)”].
- (3) The [<sup>F10</sup>“appropriate national authority”] may make regulations as to the arrangements which may be made under subsection (1)(f) [<sup>F9</sup>“... ”].

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[<sup>F11</sup>(3A) Regulations under subsection (2) or (3) may in particular make provision which (with any necessary modifications) is similar to that which may be made under section 22C by virtue of any of paragraphs 12B, 12E and 12F of Schedule 2.]

(4) The [<sup>F12</sup>appropriate national authority] may make regulations requiring any voluntary organisation who are providing accommodation for a child—

- (a) to review his case; and
- (b) to consider any representations (including any complaint) made to them by any person falling within a prescribed class of person,

in accordance with the provisions of the regulations.

[<sup>F13</sup>(5A) Regulations under subsection (4) may, in particular—

- (a) apply with modifications any provision of section 25A or 25B;
- (b) make provision which (with any necessary modifications) is similar to any provision which may be made under section 25A, 25B or 26.]

(6) Regulations under subsections (2) to (4) may provide that any person who, without reasonable excuse, contravenes or fails to comply with a regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

[<sup>F14</sup>(7) In this Part “appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.]

#### Textual Amendments

- F1** Words in s. 59(1)(a) inserted (15.1.2005) by [Children Act 2004 \(c. 34\)](#), **ss. 49(4)**, 67(7)(d)
- F2** S. 59(1)(aa) substituted for s. 59(1)(b)-(e) (1.4.2002) by [2000 c. 14](#), s. 116, **Sch. 4 para. 14(8)(a)**; S.I. [2001/4150](#), **art. 3(3)(a)** (subject to transitional provision in [art. 4](#) of the commencing S.I. and to the amendment of [art. 3](#) by S.I. [2002/1493](#), **art. 6**); S.I. [2002/920](#), **art. 3(3)(d)** (with [art. 3\(4\)-\(10\)](#) and transitional provisions in [Schs. 1-3](#))
- F3** Words in s. 59(1)(aa) substituted (1.4.2011 for E., otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 44, **Sch. 1 para. 2(2)**; S.I. [2010/2981](#), **art. 4(a)**
- F4** S. 59(1A) inserted (1.4.2002) by [2000 c. 14](#), s. 116, **Sch. 4 para. 14(8)(b)**; S.I. [2001/4150](#), **art. 3(3)(a)** (subject to transitional provision in [art. 4](#) of the commencing S.I. and to the amendment of [art. 3](#) by S.I. [2002/1493](#), **art. 6**); S.I. [2002/920](#), **art. 3(3)(d)** (with [art. 3\(4\)-\(10\)](#) and transitional provisions in [Schs. 1-3](#))
- F5** Words in s. 59(1A) substituted (1.4.2011 for E., otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 44, **Sch. 1 para. 2(3)**; S.I. [2010/2981](#), **art. 4(a)**
- F6** Words in s. 59(1A) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, **Sch. 3 para. 23(2)(a)**
- F7** Words in s. 59(1A) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, **Sch. 3 para. 23(2)(b)**
- F8** Words in s. 59(2) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, **Sch. 3 para. 23(3)**
- F9** Words in s. 59(2)(3) repealed (1.4.2011 for E., otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 42, 44, [Sch. 1 para. 2\(4\)\(5\)](#), **Sch. 4**; S.I. [2010/2981](#), **art. 4(l)**
- F10** Words in s. 59(3) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, **Sch. 3 para. 23(4)**
- F11** S. 59(3A) inserted (15.11.2010 for E., otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 44, **Sch. 1 para. 2(6)**; S.I. [2010/2714](#), **art. 2(a)**

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- F12** Words in s. 59(4) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(5)**
- F13** S. 59(5A) substituted (15.11.2010 for E., otherwise prosp.) for s. 59(5) by Children and Young Persons Act 2008 (c. 23), ss. 8(2), 44, **Sch. 1 para. 2(7)**; S.I. 2010/2714, **art. 2(a)**
- F14** S. 59(7) added (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 23(6)**

#### Commencement Information

- I1** S. 59 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 60 [F15 Voluntary homes.]

<sup>F16</sup>(1) . . . . .

<sup>F16</sup>(2) . . . . .

[<sup>F17</sup>(3) In this Act “voluntary home” means a children’s home which is carried on by a voluntary organisation but does not include a community home.]

(4) Schedule 5 shall have effect for the purpose of supplementing the provisions of this Part.

#### Textual Amendments

- F15** S. 60 sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(9)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F16** S. 60(1)(2) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F17** S. 60(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(9)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

#### Commencement Information

- I2** S. 60 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 61 Duties of voluntary organisations.

- (1) Where a child is accommodated by or on behalf of a voluntary organisation, it shall be the duty of the organisation—
- (a) to safeguard and promote his welfare;
  - (b) to make such use of the services and facilities available for children cared for by their own parents as appears to the organisation reasonable in his case; and
  - (c) to advise, assist and befriend him with a view to promoting his welfare when he ceases to be so accommodated.
- (2) Before making any decision with respect to any such child the organisation shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

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- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him; and
- (d) any other person whose wishes and feelings the organisation consider to be relevant,

regarding the matter to be decided.

- (3) In making any such decision the organisation shall give due consideration—
- (a) having regard to the child’s age and understanding, to such wishes and feelings of his as they have been able to ascertain;
  - (b) to such other wishes and feelings mentioned in subsection (2) as they have been able to ascertain; and
  - (c) to the child’s religious persuasion, racial origin and cultural and linguistic background.

**Modifications etc. (not altering text)**

- C1** S. 61: power to apply conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, ss. 53(3)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**
- C2** S. 61(2)(a) applied (30.12.2005) (E.) by [The Adoption Agencies Regulations 2005](#) (S.I. 2005/389), **art. 45(4)(a)**  
S. 61(2)(a) applied (30.12.2005) (W.) by [The Adoption Agencies \(Wales\) Regulations 2005](#) (S.I. 2005/1313), **art. 46(4)(a)**
- C3** S. 61(2)(b)-(d)(3)(b): power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E) by 2002 c. 38, ss. 53(3)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**
- C4** S. 61(2)(b) excluded (30.12.2005) (E.) by [The Adoption Agencies Regulations 2005](#) (S.I. 2005/389), **art. 45(4)(b)**  
S. 61(2)(b) excluded (30.12.2005) (W.) by [The Adoption Agencies \(Wales\) Regulations 2005](#) (S.I. 2005/1313), **art. 46(4)(b)**
- C5** S. 61(2)(c) applied (with modifications) (30.12.2005) (E.) by [The Adoption Agencies Regulations 2005](#) (S.I. 2005/389), **art. 45(4)(c)**  
S. 61(2)(c) applied (with modifications) (30.12.2005) (W.) by [The Adoption Agencies \(Wales\) Regulations 2005](#) (S.I. 2005/1313), **art. 46(4)(c)**

**Commencement Information**

- I3** S. 61 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**62 Duties of local authorities.**

- (1) Every local authority shall satisfy themselves that any voluntary organisation providing accommodation—
- (a) within the authority’s area for any child; or
  - (b) outside that area for any child on behalf of the authority,
- are satisfactorily safeguarding and promoting the welfare of the children so provided with accommodation.

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- (2) Every local authority shall arrange for children who are accommodated within their area by or on behalf of voluntary organisations to be visited, from time to time, in the interests of their welfare.
- (3) The [<sup>F18</sup>appropriate national authority] may make regulations—
  - (a) requiring every child who is accommodated within a local authority's area, by or on behalf of a voluntary organisation, to be visited by an officer of the authority—
    - (i) in prescribed circumstances; and
    - (ii) on specified occasions or within specified periods; and
  - (b) imposing requirements which must be met by any local authority, or officer of a local authority, carrying out functions under this section.
- (4) Subsection (2) does not apply in relation to community homes.
- (5) Where a local authority are not satisfied that the welfare of any child who is accommodated by or on behalf of a voluntary organisation is being satisfactorily safeguarded or promoted they shall—
  - (a) unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—
    - (i) a parent of his;
    - (ii) any person who is not a parent of his but who has parental responsibility for him; or
    - (iii) a relative of his; and
  - (b) consider the extent to which (if at all) they should exercise any of their functions with respect to the child.
- (6) Any person authorised by a local authority may, for the purpose of enabling the authority to discharge their duties under this section—
  - (a) enter, at any reasonable time, and inspect any premises in which children are being accommodated as mentioned in subsection (1) or (2);
  - (b) inspect any children there;
  - (c) require any person to furnish him with such records of a kind required to be kept by regulations made under [<sup>F19</sup>section 22 of the Care Standards Act 2000][<sup>F20</sup>or section 20 of the Health and Social Care Act 2008] (in whatever form they are held), or allow him to inspect such records, as he may at any time direct.
- (7) Any person exercising the power conferred by subsection (6) shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (8) Any person authorised to exercise the power to inspect records conferred by subsection (6)—
  - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used; or

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- (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,  
to afford him such assistance as he may reasonably require.
- (9) Any person who intentionally obstructs another in the exercise of any power conferred by subsection (6) or (8) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [<sup>F21</sup>(10) This section does not apply in relation to any voluntary organisation which is an institution within the further education sector, as defined in section 91 of the <sup>M1</sup> Further and Higher Education Act 1992, [<sup>F22</sup>a 16 to 19 Academy] or a school.]

#### Textual Amendments

- F18** Words in s. 62(3) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, [Sch. 3 para. 24](#)
- F19** Words in s. 62(6)(c) substituted (1.4.2002) by [2000 c. 14](#), s. 116, [Sch. 4 para. 14\(10\)\(a\)](#); S.I. [2001/4150](#), [art. 3\(3\)\(a\)](#) (subject to transitional provision in [art. 4](#) of the commencing S.I. and to the amendment of [art. 3](#) by S.I. [2002/1493](#), [art. 6](#)); 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F20** Words in s. 62(6)(c) inserted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), [art. 7\(2\)](#)
- F21** S. 62(10) inserted (1.4.2002 for E. and 1.2.2003 for W.) by [2000 c. 14](#), ss. 105(5), 122; S.I. [2001/3852](#), [art. 3\(7\)\(h\)](#) (subject to transitional provision in [Sch. 1](#) of the commencing S.I. (as amended by S.I. [2001/4150](#), [art. 5](#); S.I. [2002/1493](#), [art. 5](#); S.I. [2002/1790](#), [art. 2](#); S.I. [2002/2001](#), arts. 2, 3; S.I. [2002/3210](#), [art. 2](#) (with [art. 4](#)); S.I. [2005/3397](#), [art. 2](#)); S.I. [2003/152](#), [art. 2\(2\)](#))
- F22** Words in s. 62(10) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 13 para. 6\(2\)](#); S.I. [2012/924](#), [art. 2](#)

#### Commencement Information

- I4** S. 62 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. [1991/828](#), [art. 3\(2\)](#)

#### Marginal Citations

- M1** [1992 c. 13](#).

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