



# Children Act 1989

## 1989 CHAPTER 41

### PART VIII

#### REGISTERED CHILDREN'S HOMES

#### 63 [F<sup>1</sup> Private children's homes etc.]

- F<sup>2</sup>(1) .....
- F<sup>2</sup>(2) .....
- F<sup>2</sup>(3) .....
- F<sup>2</sup>(4) .....
- F<sup>2</sup>(5) .....
- F<sup>2</sup>(6) .....
- F<sup>2</sup>(7) .....
- F<sup>2</sup>(8) .....
- F<sup>2</sup>(9) .....
- F<sup>2</sup>(10) .....

(11) Schedule 6 shall have effect with respect to [F<sup>3</sup>private] children's homes.

(12) Schedule 7 shall have effect for the purpose of setting out the circumstances in which a person may foster more than three children without being treated [F<sup>4</sup>, for the purposes of this Act and the Care Standards Act 2000,] as carrying on a children's home.

#### Textual Amendments

- F1 S. 63 sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(11)(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.

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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)

- F2** S. 63(1)-(10) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and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)
- F3** Word in s. 63(11) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(11)(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)
- F4** Words in s. 63(12) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(11)(c)**; 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

- II** S. 63 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 64 Welfare of children in children’s homes.

- (1) Where a child is accommodated in a [<sup>F5</sup>private] children’s home, it shall be the duty of the person carrying on the home to—
- (a) safeguard and promote the child’s welfare;
  - (b) make such use of the services and facilities available for children cared for by their own parents as appears to that person reasonable in the case of the child; and
  - (c) 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 person carrying on the home shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child;
  - (b) his parents;
  - (c) any other person who is not a parent of his but who has parental responsibility for him; and
  - (d) any person whose wishes and feelings the person carrying on the home considers to be relevant,
- regarding the matter to be decided.
- (3) In making any such decision the person concerned shall give due consideration—
- (a) having regard to the child’s age and understanding, to such wishes and feelings of his as he has been able to ascertain;
  - (b) to such other wishes and feelings mentioned in subsection (2) as he has been able to ascertain; and
  - (c) to the child’s religious persuasion, racial origin and cultural and linguistic background.
- (4) Section 62, except subsection (4), shall apply in relation to any person who is carrying on a [<sup>F5</sup>private] children’s home as it applies in relation to any voluntary organisation.

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### Textual Amendments

- F5** Word in s. 64(1)(4) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(12)**; 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. 64 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 65 2 Persons disqualified from carrying on, or being employed in children’s homes.

- (1) A person who is disqualified (under section 68) from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in a children’s home unless he has—
  - (a) disclosed to [<sup>F6</sup>the appropriate authority] the fact that he is so disqualified; and
  - (b) obtained [<sup>F6</sup>its] written consent.
- (2) No person shall employ a person who is so disqualified in a children’s home unless he has—
  - (a) disclosed to [<sup>F6</sup>the appropriate authority] the fact that that person is so disqualified; and
  - (b) obtained [<sup>F6</sup>its] written consent.
- (3) Where [<sup>F7</sup>the appropriate authority] refuses to give its consent under this section, it shall inform the applicant by a written notice which states—
  - (a) the reason for the refusal;
  - [<sup>F8</sup>(b) the applicant’s right to appeal under section 65A against the refusal to the [<sup>F9</sup>First-tier Tribunal]]
  - (c) the time within which he may do so.
- (4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (5) Where a person contravenes subsection (2) he shall not be guilty of an offence if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified under section 68.
- [<sup>F10</sup>(6) In this section and section 65A “appropriate authority” means—
  - (a) in relation to England, the [<sup>F11</sup>Her Majesty’s Chief Inspector of Education, Children’s Services and Skills] ; and
  - (b) in relation to Wales, the National Assembly for Wales.]

### Textual Amendments

- F6** Words in s. 65(1)(a)(b)(2)(a)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(a)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

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- F7** Words in s. 65(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(b)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F8** S. 65(3)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(c)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F9** Words in s. 65(3)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 72**
- F10** S. 65(6) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(13)(d)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provisions in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F11** Words in s. 65(6)(a) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 12**; S.I. 2007/935, **art. 5(gg)**

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

- C1** S. 65: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3)**, 188; S.I. 2007/935, **art. 5(u)**

**Commencement Information**

- I3** S. 65 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**[<sup>F12</sup>65A Appeal against refusal of authority to give consent under section 65.**

- (1) An appeal against a decision of an appropriate authority under section 65 shall lie to the [<sup>F13</sup>First-tier Tribunal] .
- (2) On an appeal the Tribunal may confirm the authority’s decision or direct it to give the consent in question.]

**Textual Amendments**

- F12** S. 65A inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(14)**; S.I. 2002/1493, **art. 3(2)(b)** (subject to transitional provision in art. 4); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F13** Words in s. 65A(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 73**

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