



# Children Act 1989

## 1989 CHAPTER 41

### PART XII U.K.

#### MISCELLANEOUS AND GENERAL

##### *Notification of children accommodated in certain establishments*

#### 85 Children accommodated by health authorities and local education authorities. E+W

- (1) Where a child is provided with accommodation by any [<sup>F1</sup>Health Authority, Special Health Authority,]<sup>F2</sup>Primary Care Trust,]<sup>F3</sup>National Health Service trust] or local education authority (“the accommodating authority”)—
  - (a) for a consecutive period of at least three months; or
  - (b) with the intention, on the part of that authority, of accommodating him for such a period,the accommodating authority shall notify the responsible authority.
- (2) Where subsection (1) applies with respect to a child, the accommodating authority shall also notify the responsible authority when they cease to accommodate the child.
- (3) In this section “the responsible authority” means—
  - (a) the local authority appearing to the accommodating authority to be the authority within whose area the child was ordinarily resident immediately before being accommodated; or
  - (b) where it appears to the accommodating authority that a child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.
- (4) Where a local authority have been notified under this section, they shall—
  - (a) take such steps as are reasonably practicable to enable them to determine whether the child’s welfare is adequately safeguarded and promoted while he is accommodated by the accommodating authority; and

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- (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

#### Textual Amendments

- F1** Words in s. 85(1) substituted(1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III, para. 118(9)**(with Sch. 2 para. 6)
- F2** Words in s. 85(1) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(9)** (with art. 2(5))
- F3** Words inserted by **National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), Sch. 9 para. 36(5)**

#### Commencement Information

- II** S. 85 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 86 Children accommodated in residential care, nursing or mental nursing homes. **E+W**

- (1) Where a child is provided with accommodation in any residential care home, nursing home or mental nursing home—
- (a) for a consecutive period of at least three months; or
  - (b) with the intention, on the part of the person taking the decision to accommodate him, of accommodating him for such period,
- the person carrying on the home shall notify the local authority within whose area the home is carried on.
- (2) Where subsection (1) applies with respect to a child, the person carrying on the home shall also notify that authority when he ceases to accommodate the child in the home.
- (3) Where a local authority have been notified under this section, they shall—
- (a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated in the home; and
  - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.
- (4) If the person carrying on any home fails, without reasonable excuse, to comply with this section he shall be guilty of an offence.
- (5) A person authorised by a local authority may enter any residential care home, nursing home or mental nursing home within the authority's area for the purpose of establishing whether the requirements of this section have been complied with.
- (6) Any person who intentionally obstructs another in the exercise of the power of entry shall be guilty of an offence.
- (7) Any person exercising the power of entry shall, if so required, produce some duly authenticated document showing his authority to do so.
- (8) Any person committing an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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#### Commencement Information

**I2** S. 86 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

VALID FROM 01/01/2010

#### [<sup>F4</sup>86A Visitors for children notified to local authority under section 85 or 86 **E+W**

- (1) This section applies if the appropriate officer of a local authority—
  - (a) has been notified with respect to a child under section 85(1) or 86(1); and
  - (b) has not been notified with respect to that child under section 85(2) or, as the case may be, 86(2).
- (2) The local authority must, in accordance with regulations made under this section, make arrangements for the child to be visited by a representative of the authority (“a representative”).
- (3) It is the function of a representative to provide advice and assistance to the local authority on the performance of their duties under section 85(4) or, as the case may be, 86(3).
- (4) Regulations under this section may make provision about—
  - (a) the frequency of visits under visiting arrangements;
  - (b) circumstances in which visiting arrangements must require a child to be visited; and
  - (c) additional functions of a representative.
- (5) Regulations under this section are to be made by the Secretary of State and the Welsh Ministers acting jointly.
- (6) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.
- (7) In this section “visiting arrangements” means arrangements made under subsection (2).]

#### Textual Amendments

**F4** S. 86A inserted (1.1.2010 for certain purposes and 1.4.2011 otherwise) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 18, 44; S.I. 2009/3354, art. 2; S.I. 2010/2981, art. 2(b)

#### 87 Welfare of children accommodated in independent schools. **E+W**

- [<sup>F5</sup>(1) Where a school or college provides accommodation for any child, it shall be the duty of the relevant person to safeguard and promote the child’s welfare.
- (2) Subsection (1) does not apply in relation to a school or college which is a children’s home or care home.

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- (3) Where accommodation is provided for a child by any school or college the appropriate authority shall take such steps as are reasonably practicable to enable them to determine whether the child’s welfare is adequately safeguarded and promoted while he is accommodated by the school or college.
- (4) Where the Commission are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or college, they shall—
- (a) in the case of a school other than an independent school or a special school, notify the local education authority for the area in which the school is situated;
  - (b) in the case of a special school which is maintained by a local education authority, notify that authority;
  - (c) in any other case, notify the Secretary of State.
- (4A) Where the National Assembly for Wales are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or college, they shall—
- (a) in the case of a school other than an independent school or a special school, notify the local education authority for the area in which the school is situated;
  - (b) in the case of a special school which is maintained by a local education authority, notify that authority.
- (5) Where accommodation is, or is to be, provided for a child by any school or college, a person authorised by the appropriate authority may, for the purpose of enabling that authority to discharge its duty under this section, enter at any time premises which are, or are to be, premises of the school or college.]
- (6) Any person [<sup>F6</sup>exercising] the power conferred by subsection (5) may carry out such inspection of premises, children and records as is prescribed by regulations made by the Secretary of State for the purposes of this section.
- (7) Any person exercising that power shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (8) Any person authorised by the regulations to inspect records—
- (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
    - (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 this section or the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [<sup>F7</sup>(10) In this section and sections 87A to 87D—
- “the 1992 Act” means the <sup>M1</sup>Further and Higher Education Act 1992;
- “appropriate authority” means—
- (a) in relation to England, the National Care Standards Commission;

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- (b) in relation to Wales, the National Assembly for Wales;  
“college” means an institution within the further education sector as defined in section 91 of the 1992 Act;  
“the Commission” means the National Care Standards Commission;  
“further education corporation” has the same meaning as in the 1992 Act;  
“local education authority” and “proprietor” have the same meanings as in the <sup>M2</sup>Education Act 1996

- (11) In this section and sections 87A and 87D “relevant person” means—
  - (a) in relation to an independent school, the proprietor of the school;
  - (b) in relation to any other school, or an institution designated under section 28 of the 1992 Act, the governing body of the school or institution;
  - (c) in relation to an institution conducted by a further education corporation, the corporation.
- (12) Where a person other than the proprietor of an independent school is responsible for conducting the school, references in this section to the relevant person include references to the person so responsible.]

#### Textual Amendments

- F5** S. 87(1)-(5) substituted (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and otherwise prosp.) by 2000 c. 14, **ss. 105(2)**, 122; S.I. 2001/3852, **art. 3(3)(a)(iii)(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**))
- F6** Words in s. 87(6) substituted (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and otherwise prosp.) by 2000 c. 14, **ss. 105(3)**, 122; S.I. 2001/3852, **art. 3(3)(a)(iii)(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**))
- F7** S. 87(10)(11)(12) substituted for s. 87(10) (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and otherwise prosp.) by 2000 c. 14, **ss. 105(4)**, 122; S.I. 2001/3852, **art. 3(3)(a)(iii)(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**))

#### Commencement Information

- I3** S. 87 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.
- M2** 1996 c. 56.

### [<sup>F8</sup>87A Suspension of duty under section 87(3). **E+W**

- (1) The Secretary of State may appoint a person to be an inspector for the purposes of this section if—
  - (a) that person already acts as an inspector for other purposes in relation to independent schools to which section 87(1) applies, and

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- (b) the Secretary of State is satisfied that the person is an appropriate person to determine whether the welfare of children provided with accommodation by such schools is adequately safeguarded and promoted while they are accommodated by them.
- (2) Where—
- (a) the proprietor of an independent school to which section 87(1) applies enters into an agreement in writing with a person appointed under subsection (1),
  - (b) the agreement provides for the person so appointed to have in relation to the school the function of determining whether section 87(1) is being complied with, and
  - (c) the local authority in whose area the school is situated receive from the person with whom the proprietor of the school has entered into the agreement notice in writing that the agreement has come into effect,
- the authority’s duty under section 87(3) in relation to the school shall be suspended.
- (3) Where a local authority’s duty under section 87(3) in relation to any school is suspended under this section, it shall cease to be so suspended if the authority receive—
- (a) a notice under subsection (4) relating to the person with whom the proprietor of the school entered into the relevant agreement, or
  - (b) a notice under subsection (5) relating to that agreement.
- (4) The Secretary of State shall terminate a person’s appointment under subsection (1) if—
- (a) that person so requests, or
  - (b) the Secretary of State ceases, in relation to that person, to be satisfied that he is such a person as is mentioned in paragraph (b) of that subsection,
- and shall give notice of the termination of that person’s appointment to every local authority.
- (5) Where—
- (a) a local authority’s duty under section 87(3) in relation to any school is suspended under this section, and
  - (b) the relevant agreement ceases to have effect,
- the person with whom the proprietor of the school entered into that agreement shall give to the authority notice in writing of the fact that it has ceased to have effect.
- (6) In this section—
- (a) “proprietor” has the same meaning as in [<sup>F9</sup>the Education Act 1996], and
  - (b) references to the relevant agreement, in relation to the suspension of a local authority’s duty under section 87(3) as regards any school, are to the agreement by virtue of which the authority’s duty under that provision as regards that school is suspended.]

#### **Textual Amendments**

**F8** Ss. 87A and 87B inserted (1.1.1996) by 1994 c. 40, s. 38; S.I. 1995/2835, art. 2

**F9** Words in s. 87A(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. 1 para. 88

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**[<sup>F10</sup>87B Duties of inspectors under section 87A. E+W**

- (1) The Secretary of State may impose on a person appointed under section 87A(1) (“an authorised inspector”) such requirements relating to, or in connection with, the carrying out under substitution agreements of the function mentioned in section 87A(2)(b) as the Secretary of State thinks fit.
- (2) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that there has been a failure to comply with section 87(1) in the case of a child provided with accommodation by the school to which the agreement relates, the inspector shall give notice of that fact to the Secretary of State.
- (3) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that a child provided with accommodation by the school to which the agreement relates is suffering, or is likely to suffer, significant harm, the inspector shall—
  - (a) give notice of that fact to the local authority in whose area the school is situated, and
  - (b) where the inspector is required to make inspection reports to the Secretary of State, supply that local authority with a copy of the latest inspection report to have been made by the inspector to the Secretary of State in relation to the school.
- (4) In this section—
  - (a) “proprietor” has the same meaning as in [<sup>F11</sup>the Education Act 1996]], and
  - (b) references to substitution agreement are to an agreement between an authorised inspector and the proprietor of an independent school by virtue of which the local authority’s duty in relation to the school under section 87(3) is suspended.

**Textual Amendments**

**F10** Ss. 87A, 87B inserted (1.1.1996) by 1995 c. 40, s. 38: S.I. 1995/2835, art. 2

**F11** Words in s. 87B(4)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.89

**[<sup>F12</sup>87C Boarding schools: national minimum standards. E+W**

- (1) The Secretary of State may prepare and publish statements of national minimum standards for safeguarding and promoting the welfare of children for whom accommodation is provided in a school or college.
- (2) The Secretary of State shall keep the standards set out in the statements under review and may publish amended statements whenever he considers it appropriate to do so.
- (3) Before issuing a statement, or an amended statement which in the opinion of the Secretary of State effects a substantial change in the standards, the Secretary of State shall consult any persons he considers appropriate.
- (4) The standards shall be taken into account—
  - (a) in the making by the appropriate authority of any determination under section 87(4) or (4A);



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- (b) in the making by a person appointed under section 87A(1) of any determination under section 87B(2); and
- (c) in any proceedings under any other enactment in which it is alleged that the person has failed to comply with section 87(1).]

#### Textual Amendments

**F12** S. 87C inserted (1.7.2001 (W.) and 20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force) by 2000 c. 14, s. 107; S.I. 2001/2190, art. 2, Sch.; S.I. 2001/3852, art. 3(3)(d)(ii)(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))

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

**C1** S. 87C: 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)

### [<sup>F13</sup>87D Annual fee for boarding school inspections. **E+W**]

- (1) Regulations under subsection (2) may be made in relation to any school or college in respect of which the appropriate authority is required to take steps under section 87(3).
- (2) The Secretary of State may by regulations require the relevant person to pay the appropriate authority an annual fee of such amount, and within such time, as the regulations may specify.
- (3) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.].

#### Textual Amendments

**F13** S. 87D inserted (1.7.2001 (W.) and 20.11.2001 for specified purposes otherwise 1.4.2002 (E.)) by 2000 c. 14, s. 108; S.I. 2001/2090, art. 2(1), Sch.; S.I. 2001/3852, art. 3(3)(a)(iii)(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))

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

**C2** S. 87D: 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)

### *Adoption*

### 88 Amendments of adoption legislation. **E+W+S**

- (1) The <sup>M3</sup>Adoption Act 1976 shall have effect subject to the amendments made by Part I of Schedule 10.
- (2) The <sup>M4</sup>Adoption (Scotland) Act 1978 shall have effect subject to the amendments made by Part II of Schedule 10.



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#### Commencement Information

**I4** S. 88(1) in force at 1.5.1991 so far as it relates to Sch. 10 para. 21; s. 88 wholly in force 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3**

#### Marginal Citations

**M3** 1976 c. 36.

**M4** 1978 c. 28.

### *Paternity tests*

**F14**<sup>89</sup> ..... **E+W**

#### Textual Amendments

**F14** S. 89 repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

### *Criminal care and supervision orders*

#### **90 Care and supervision orders in criminal proceedings. **E+W****

- (1) The power of a court to make an order under subsection (2) of section 1 of the <sup>M5</sup>Children and Young Persons Act 1969 (care proceedings in [<sup>F15</sup>youth courts]) where it is of the opinion that the condition mentioned in paragraph (f) of that subsection (“the offence condition”) is satisfied is hereby abolished.
- (2) The powers of the court to make care orders—
  - (a) under section 7(7)(a) of the Children and Young Persons Act 1969 (alteration in treatment of young offenders etc.); and
  - (b) under section 15(1) of that Act, on discharging a supervision order made under section 7(7)(b) of that Act,are hereby abolished.
- (3) The powers given by that Act to include requirements in supervision orders shall have effect subject to amendments made by Schedule 12.

#### Textual Amendments

**F15** Words in s. 90(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40** (2)(r); S.I. 1992/333, art. 2(2), **Sch.2**.

#### Commencement Information

**I5** S. 90 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

**M5** 1969 c. 54.

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*Effect and duration of orders etc.*

**91 Effect and duration of orders etc. E+W**

- (1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.
- (2) The making of a care order with respect to a child who is the subject of any section 8 order discharges that order.
- (3) The making of a care order with respect to a child who is the subject of a supervision order discharges that other order.
- (4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.
- (5) The making of a care order with respect to a child who is the subject of a school attendance order made under [F16section 437 of the Education Act 1996] discharges the school attendance order.
- (6) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.
- (7) Any order made under section 4(1) or 5(1) shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (8) Any—
  - (a) agreement under section 4; or
  - (b) appointment under section 5(3) or (4),
 shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (9) An order under Schedule 1 has effect as specified in that Schedule.
- (10) A section 8 order shall, if it would otherwise still be in force, cease to have effect when the child reaches the age of sixteen, unless it is to have effect beyond that age by virtue of section 9(6).
- (11) Where a section 8 order has effect with respect to a child who has reached the age of sixteen, it shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.
- (12) Any care order, other than an interim care order, shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (13) Any order made under any other provision of this Act in relation to a child shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.
- (14) On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.
- (15) Where an application (“the previous application”) has been made for—
  - (a) the discharge of a care order;

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- (b) the discharge of a supervision order;
- (c) the discharge of an education supervision order;
- (d) the substitution of a supervision order for a care order; or
- (e) a child assessment order,

no further application of a kind mentioned in paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds six months.

(16) Subsection (15) does not apply to applications made in relation to interim orders.

(17) Where—

- (a) a person has made an application for an order under section 34;
- (b) the application has been refused; and
- (c) a period of less than six months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless he has obtained the leave of the court.

#### Textual Amendments

**F16** Words in s. 91(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37, Pt. I para. 90(with Sch. 39, paras. 30, 39) ,

#### Commencement Information

**I6** S. 91 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

### *Jurisdiction and procedure etc.*

## 92 Jurisdiction of courts. **E+W**

- (1) The name “domestic proceedings”, given to certain proceedings in magistrates’ courts, is hereby changed to “family proceedings” and the names “domestic court” and “domestic court panel” are hereby changed to “family proceedings court” and “family panel”, respectively.
- (2) Proceedings under this Act shall be treated as family proceedings in relation to magistrates’ courts.
- (3) Subsection (2) is subject to the provisions of section 65(1) and (2) of the <sup>M6</sup>Magistrates’ Courts Act 1980 (proceedings which may be treated as not being family proceedings), as amended by this Act.
- (4) A magistrates’ court shall not be competent to entertain any application, or make any order, involving the administration or application of—
  - (a) any property belonging to or held in trust for a child; or
  - (b) the income of any such property.
- (5) The powers of a magistrates’ court under section 63(2) of the Act of 1980 to suspend or rescind orders shall not apply in relation to any order made under this Act.

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- (6) Part I of Schedule 11 makes provision, including provision for the Lord Chancellor to make orders, with respect to the jurisdiction of courts and justices of the peace in relation to—
- (a) proceedings under this Act; and
  - (b) proceedings under certain other enactments.
- (7) For the purposes of this Act “the court” means the High Court, a county court or a magistrates’ court.
- (8) Subsection (7) is subject to the provision made by or under Part I of Schedule 11 and to any express provision as to the jurisdiction of any court made by any other provision of this Act.
- (9) The Lord Chancellor may by order make provision for the principal registry of the Family Division of the High Court to be treated as if it were a county court for such purposes of this Act, or of any provision made under this Act, as may be specified in the order.
- (10) Any order under subsection (9) may make such provision as the Lord Chancellor thinks expedient for the purpose of applying (with or without modifications) provisions which apply in relation to the procedure in county courts to the principal registry when it acts as if it were a county court.
- (11) Part II of Schedule 11 makes amendments consequential on this section.

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

- C3** S. 92(2) excluded (14.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 60(3); S.I. 1991/2208, art. 2(1), [Sch. 1](#)
- C4** S. 92(7)–(10) applied by [Human Fertilisation and Embryology Act 1990 \(c. 37, SIF 83:1\)](#), ss. 30(8)(9), 39(3), 43(2)

#### Commencement Information

- I7** S. 92 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

#### Marginal Citations

- M6** 1980 c. 43.

## 93 Rules of court. **E+W**

- (1) An authority having power to make rules of court may make such provision for giving effect to—
- (a) this Act;
  - (b) the provisions of any statutory instrument made under this Act; or
  - (c) any amendment made by this Act in any other enactment,
- as appears to that authority to be necessary or expedient.
- (2) The rules may, in particular, make provision—
- (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);

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- (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
  - (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
  - (d) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a magistrates' court to relevant proceedings in such a court brought otherwise than on a complaint;
  - (e) with respect to preliminary hearings;
  - (f) for the service outside [<sup>F17</sup>England and Wales], in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a magistrates' court;
  - (g) for the exercise by magistrates' courts, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is [<sup>F18</sup>or resides] outside England and Wales);
  - (h) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings;
  - (i) authorising a single justice to discharge the functions of a magistrates' court with respect to such relevant proceedings as may be prescribed;
  - (j) authorising a magistrates' court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.
- (3) In subsection (2)—
- “notice of proceedings” means a summons or such other notice of proceedings as is required; and “given”, in relation to a summons, means “served”;
  - “prescribed” means prescribed by the rules; and
  - “relevant proceedings” means any application made, or proceedings brought, under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) and any part of such proceedings.
- (4) This section and any other power in this Act to make rules of court are not to be taken as in any way limiting any other power of the authority in question to make rules of court.
- (5) When making any rules under this section an authority shall be subject to the same requirements as to consultation (if any) as apply when the authority makes rules under its general rule making power.

#### Textual Amendments

**F17** Words in s. 93(2)(f) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 22(a); S.I. 1991/1883, art.3, Sch.

**F18** Words in s. 93(2)(g) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 22(b); S.I. 1991/1883, art.3, Sch.

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#### Commencement Information

**18** S. 93 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

## 94 Appeals. **E+W**

- (1) <sup>F19</sup>Subject to any express provisions to the contrary made by or under this Act, an appeal shall lie to the High Court against—
  - (a) the making by a magistrates' court of any order under this Act; or
  - (b) any refusal by a magistrates' court to make such an order.
- (2) Where a magistrates' court has power, in relation to any proceedings under this Act, to decline jurisdiction because it considers that the case can more conveniently be dealt with by another court, no appeal shall lie against any exercise by that magistrates' court of that power.
- (3) Subsection (1) does not apply in relation to an interim order for periodical payments made under Schedule 1.
- (4) On an appeal under this section, the High Court may make such orders as may be necessary to give effect to its determination of the appeal.
- (5) Where an order is made under subsection (4) the High Court may also make such incidental or consequential orders as appear to it to be just.
- (6) Where an appeal from a magistrates' court relates to an order for the making of periodical payments, the High Court may order that its determination of the appeal shall have effect from such date as it thinks fit to specify in the order.
- (7) The date so specified must not be earlier than the earliest date allowed in accordance with rules of court made for the purposes of this section.
- (8) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, the High Court reduces the amount of those payments or discharges the order—
  - (a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as the High Court thinks fit; and
  - (b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.
- (9) Any order of the High Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes—
  - (a) of the enforcement of the order; and
  - (b) of any power to vary, revive or discharge orders,
 be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the High Court.
- (10) The Lord Chancellor may by order make provision as to the circumstances in which appeals may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11.

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- (11) Except to the extent provided for in any order made under subsection (10), no appeal may be made against any decision of a kind mentioned in that subsection.

#### Textual Amendments

**F19** Words in s. 94(1) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 23; S.I. 1991/1883, art.3, Sch.

#### Commencement Information

**I9** S. 94 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

### 95 Attendance of child at hearing under Part IV or V. **E+W**

- (1) In any proceedings in which a court is hearing an application for an order under Part IV or V, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.
- (2) The power conferred by subsection (1) shall be exercised in accordance with rules of court.
- (3) Subsections (4) to (6) apply where—
- an order under subsection (1) has not been complied with; or
  - the court has reasonable cause to believe that it will not be complied with.
- (4) The court may make an order authorising a constable, or such person as may be specified in the order—
- to take charge of the child and to bring him to the court; and
  - to enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises.
- (5) The court may order any person who is in a position to do so to bring the child to the court.
- (6) Where the court has reason to believe that a person has information about the whereabouts of the child it may order him to disclose it to the court.

#### Commencement Information

**I10** S. 95 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

### 96 Evidence given by, or with respect to, children. **E+W**

- (1) Subsection (2) applies where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath.
- (2) The child's evidence may be heard by the court if, in its opinion—
- he understands that it is his duty to speak the truth; and
  - he has sufficient understanding to justify his evidence being heard.



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- (3) The Lord Chancellor may by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.
- (4) An order under subsection (3) may only be made with respect to—
  - (a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and
  - (b) evidence in connection with the upbringing, maintenance or welfare of a child.
- (5) An order under subsection (3)—
  - (a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;
  - (b) may make different provision for different purposes and in relation to different descriptions of court; and
  - (c) may make such amendments and repeals in any enactment relating to evidence (other than in this Act) as the Lord Chancellor considers necessary or expedient in consequence of the provision made by the order.
- (6) Subsection (5)(b) is without prejudice to section 104(4).
- (7) In this section—
 

[<sup>F20</sup>“civil proceedings” means civil proceedings, before any tribunal, in relation to which the strict rules of evidence apply, whether as a matter of law or by agreement of the parties, and references to “the court” shall be construed accordingly;]

“prescribed” means prescribed by an order under subsection (3).

#### Textual Amendments

**F20** Definition in s. 96(7) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para.16**(with ss. 1(3), 6(4) (5), 14); **S.I. 1996/3217, art.2**

#### Commencement Information

**I11** S. 96 wholly in force at 14.10.1991; s. 96(3)-(7) in force at 16.11.1989 see s. 108(2); s. 96(1)(2) in force at 14.10.1991 see s. 108(2)(3) and **S.I. 1991/828, art. 3(2)**

## 97 Privacy for children involved in certain proceedings. **E+W**

- (1) Rules made under section 144 of the <sup>M7</sup>Magistrates’ Courts Act 1980 may make provision for a magistrates’ court to sit in private in proceedings in which any powers under this Act may be exercised by the court with respect to any child.
- (2) No person shall publish any material which is intended, or likely, to identify—
  - (a) any child as being involved in any proceedings before [<sup>F21</sup>the High Court, a county court or]a magistrates’ court in which any power under this Act may be exercised by the court with respect to that or any other child; or
  - (b) an address or school as being that of a child involved in any such proceedings.
- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.

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- (4) The court or the <sup>F22</sup>[Lord Chancellor] may, if satisfied that the welfare of the child requires it, by order dispense with the requirements of subsection (2) to such extent as may be specified in the order.
- (5) For the purposes of this section—  
“publish” includes—  
<sup>F23</sup>(a) include in a programme service (within the meaning of the Broadcasting Act 1990);  
(b) cause to be published; and  
“material” includes any picture or representation.
- (6) Any person who contravenes this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (7) Subsection (1) is without prejudice to—  
(a) the generality of the rule making power in section 144 of the Act of 1980; or  
(b) any other power of a magistrates’ court to sit in private.
- (8) <sup>F24</sup>[Sections 69 (sittings of magistrates’; courts for family proceedings) and 71 (newspaper reports of certain proceedings) of the Act of 1980] shall apply in relation to any proceedings <sup>F25</sup>[before a magistrates’ court] to which this section applies subject to the provisions of this section.

#### Textual Amendments

- F21** Words in s. 97(2) inserted (27.9.1999) by 1999 c. 22, ss. 72, 108(3) (with s. 107, Sch. 14 para. 7(2))
- F22** Words in s. 97(4) substituted (1.4.1992) by S.I. 1992/709, art. 3(2), Sch. 2 (with art. 5(2)).
- F23** Words in s. 97(5) substituted by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), Sch. 20 para. 53
- F24** Words in s. 97(8) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 24; S.I. 1991/1883, art. 3, Sch.
- F25** Words in s. 97(8) inserted (27.7.1999) by 1999 c. 22, ss. 72, 108(3) (with s. 107, Sch. 14 para. 7(2))

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

- C5** S. 97(2) excluded (27.9.1999) by 1999 c. 22, ss. 105, 108(1), Sch. 14 Pt. IV para. 18 (with s. 107, Sch. 14 para. 7(2))
- C6** S. 97(4): functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 3(1), Sch. 2 (with art. 5(2)).

#### Commencement Information

- I12** S. 97 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

- M7** 1980 c. 43.

## 98 Self-incrimination. **E+W**

- (1) In any proceedings in which a court is hearing an application for an order under Part IV or V, no person shall be excused from—  
(a) giving evidence on any matter; or  
(b) answering any question put to him in the course of his giving evidence,

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on the ground that doing so might incriminate him or his spouse of an offence.

- (2) A statement or admission made in such proceedings shall not be admissible in evidence against the person making it or his spouse in proceedings for an offence other than perjury.

#### Commencement Information

**I13** S. 98 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### F2699 . E+W

- (1) .....
- F26(2) .....
- F26(3) .....
- F26(4) .....
- F26(5) .....

#### Textual Amendments

**F26** S. 99(1)(2)(4)(5) repealed (1.4.2000) and s. 99(3) repealed (2.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. I (with 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(i), Sch. (with art. 5); S.I. 2001/916, art. 3(b) (with transitional provisions and savings in Schs. 1, 2)

#### 100 Restrictions on use of wardship jurisdiction. E+W

- (1) Section 7 of the <sup>M8</sup>Family Law Reform Act 1969 (which gives the High Court power to place a ward of court in the care, or under the supervision, of a local authority) shall cease to have effect.
- (2) No court shall exercise the High Court's inherent jurisdiction with respect to children—
- so as to require a child to be placed in the care, or put under the supervision, of a local authority;
  - so as to require a child to be accommodated by or on behalf of a local authority;
  - so as to make a child who is the subject of a care order a ward of court; or
  - for the purpose of conferring on any local authority power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.
- (3) No application for any exercise of the court's inherent jurisdiction with respect to children may be made by a local authority unless the authority have obtained the leave of the court.
- (4) The court may only grant leave if it is satisfied that—
- the result which the authority wish to achieve could not be achieved through the making of any order of a kind to which subsection (5) applies; and

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- (b) there is reasonable cause to believe that if the court's inherent jurisdiction is not exercised with respect to the child he is likely to suffer significant harm.
- (5) This subsection applies to any order—
- (a) made otherwise than in the exercise of the court's inherent jurisdiction; and
  - (b) which the local authority is entitled to apply for (assuming, in the case of any application which may only be made with leave, that leave is granted).

#### Commencement Information

**I14** S. 100 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

**M8** 1969 c. 46.

### **101 Effect of orders as between England and Wales and Northern Ireland, the Channel Islands or the Isle of Man. E+W+N.I.**

- (1) The Secretary of State may make regulations providing—
- (a) for prescribed orders which—
    - (i) are made by a court in Northern Ireland; and
    - (ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision of this Act,to have effect in prescribed circumstances, for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act;
  - (b) for prescribed orders which—
    - (i) are made by a court in England and Wales; and
    - (ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision in force in Northern Ireland,to have effect in prescribed circumstances, for prescribed purposes of the law of Northern Ireland, as if they were orders of a prescribed kind made in Northern Ireland.
- (2) Regulations under subsection (1) may provide for the order concerned to cease to have effect for the purposes of the law of Northern Ireland, or (as the case may be) the law of England and Wales, if prescribed conditions are satisfied.
- (3) The Secretary of State may make regulations providing for prescribed orders which—
- (a) are made by a court in the Isle of Man or in any of the Channel Islands; and
  - (b) appear to the Secretary of State to correspond in their effect to orders which may be made under this Act,
- to have effect in prescribed circumstances for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act.
- (4) Where a child who is in the care of a local authority is lawfully taken to live in Northern Ireland, the Isle of Man or any of the Channel Islands, the care order in question shall cease to have effect if the conditions prescribed in regulations made by the Secretary of State are satisfied.
- (5) Any regulations made under this section may—
- (a) make such consequential amendments (including repeals) in—

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- (i) section 25 of the <sup>M9</sup>Children and Young Persons Act 1969 (transfers between England and Wales and Northern Ireland); or
  - (ii) section 26 (transfers between England and Wales and Channel Islands or Isle of Man) of that Act,
- as the Secretary of State considers necessary or expedient; and
- (b) modify any provision of this Act, in its application (by virtue of the regulations) in relation to an order made otherwise than in England and Wales.

#### Extent Information

**E1** S. 101 extends to England and Wales only except for s. 101(1)(b)(2)(5)(a)(i) which also extend to Northern Ireland. See s. 108(11)(12)

#### Commencement Information

**I15** S. 101 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

#### Marginal Citations

**M9** 1969 c. 54.

### *Search warrants*

#### **102 Power of constable to assist in exercise of certain powers to search for children or inspect premises. E+W**

- (1) Where, on an application made by any person for a warrant under this section, it appears to the court—
  - (a) that a person attempting to exercise powers under any enactment mentioned in subsection (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or
  - (b) that any such person is likely to be so prevented from exercising any such powers,
 it may issue a warrant authorising any constable to assist that person in the exercise of those powers, using reasonable force if necessary.
- (2) Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—
  - (a) that person so desires; and
  - (b) the court by whom the warrant is issued does not direct otherwise.
- (3) A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or [<sup>F27</sup>registered midwife] if he so chooses.
- (4) An application for a warrant under this section shall be made in the manner and form prescribed by rules of court.
- (5) Where—
  - (a) an application for a warrant under this section relates to a particular child; and
  - (b) it is reasonably practicable to do so,

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the application and any warrant granted on the application shall name the child; and where it does not name him it shall describe him as clearly as possible.

- (6) The enactments are—
- (a) sections 62, 64, 67, 76, 80, 86 and 87;
  - (b) paragraph 8(1)(b) and (2)(b) of Schedule 3;
  - (c) section 33 of the <sup>M10</sup>Adoption Act 1976 (duty of local authority to secure that protected children are visited from time to time).

#### Textual Amendments

**F27** Words in s. 102(3) substituted (12.2.2002) by S.I. 2002/253, arts. 1, 54, Sch. 5 para. 10(c) (with art. 3(18)) (the substitution coming into force in accordance with art. 1(2)(3) of the said S.I. 2002/253)

#### Commencement Information

**I16** S. 102 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

**M10** 1976 c. 36.

### General

#### 103 Offences by bodies corporate. **E+W**

- (1) This section applies where any offence under this Act is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

#### Commencement Information

**I17** s. 103 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### 104 Regulations and orders. **E+W+S**

- (1) Any power of the Lord Chancellor or the Secretary of State under this Act to make an order, regulations, or rules, except an order under section 54(2), 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4), 107 or 108(2), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under section 17(4) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument made under this Act may—

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- (a) make different provision for different cases;
- (b) provide for exemptions from any of its provisions; and
- (c) contain such incidental, supplemental and transitional provisions as the person making it considers expedient.

#### Commencement Information

**I18** S. 104 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

VALID FROM 13/11/2008

#### **[<sup>F28</sup>104A Regulations and orders made by the Welsh Ministers under Part 3 etc. **E****

**+W**

- (1) Any power of the Welsh Ministers under Part 3, Part 7 or section 86A to make an order or regulations shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4) or one containing regulations which fall within subsection (4) or (5), shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) An order under section 17(4) or regulations which fall within subsection (4) or (5) shall not be made by the Welsh Ministers unless a draft of the statutory instrument containing the order or regulations has been laid before and approved by a resolution of the National Assembly for Wales.
- (4) Regulations fall within this subsection if they are the first regulations to be made by the Welsh Ministers in the exercise of the power conferred by section 23C(5B)(b).
- (5) Regulations fall within this subsection if they are the first regulations to be made by the Welsh Ministers in the exercise of the power conferred by paragraph 6(2) of Schedule 2.]

#### Textual Amendments

**F28** S. 104A inserted (E.W.) (13.11.2008) by **Children and Young Persons Act 2008 (c. 23)**, ss. 39, 44, **Sch. 3 para. 26**

#### **105 Interpretation. **E+W+S****

- (1) In this Act—

“adoption agency” means a body which may be referred to as an adoption agency by virtue of section 1 of the <sup>M11</sup>Adoption Act 1976;

“bank holiday” means a day which is a bank holiday under the <sup>M12</sup>Banking and Financial Dealings Act 1971;

“care order” has the meaning given by section 31(11) and also includes any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Act; and any reference to a child who



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is in the care of an authority is a reference to a child who is in their care by virtue of a care order;

“child” means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen;

“child assessment order” has the meaning given by section 43(2);

“child minder” has the meaning given by section 71;

“child of the family”, in relation to the parties to a marriage, means—

- (a) a child of both of those parties;
- (b) any other child, not being a child who is placed with those parties as foster parents by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family;

“children’s home” has the meaning as in section 63;

“community home” has the meaning given by section 53;

“contact order” has the meaning given by section 8(1);

“day care” [<sup>F29</sup>(except in Part XA)] has the same meaning as in section 18;

“disabled”, in relation to a child, has the same meaning as in section 17(11);

<sup>F30</sup> . . .

“domestic premises” has the meaning given by section 71(12);

[<sup>F31</sup>“dwelling-house” includes—

- (a) any building or part of a building which is occupied as a dwelling;
- (b) any caravan, house-boat or structure which is occupied as a dwelling;

and any yard, garden, garage or outhouse belonging to it and occupied with it;]

“education supervision order” has the meaning given in section 36;

“emergency protection order” means an order under section 44;

“family assistance order” has the meaning given in section 16(2);

“family proceedings” has the meaning given by section 8(3);

“functions” includes powers and duties;

“guardian of a child” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 5;

“harm” has the same meaning as in section 31(9) and the question of whether harm is significant shall be determined in accordance with section 31(10);

[<sup>F32</sup>“Health Authority” means a Health Authority established under section 8 of the <sup>M13</sup>National Health Service Act 1977;]

“health service hospital” has the same meaning as in the <sup>M14</sup>National Health Service Act 1977;

“hospital” [<sup>F33</sup>(except in Schedule 9A)] has the same meaning as in the <sup>M15</sup>Mental Health Act 1983, except that it does not include a special hospital within the meaning of that Act;

“ill-treatment” has the same meaning as in section 31(9);

[<sup>F34</sup>“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]

“independent school” has the same meaning as in [<sup>F35</sup>the Education Act 1996];

“local authority” means, in relation to England <sup>F36</sup>. . . , the council of a county, a metropolitan district, a London Borough or the Common Council of

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the City of London [<sup>F37</sup>in relation to Wales, the council of a county or a county borough]and, in relation to Scotland, a local authority within the meaning of section 1(2) of the <sup>M16</sup>Social Work (Scotland) Act 1968;

“local authority foster parent” has the same meaning as in section 23(3);

“local education authority” has the same meaning as in [<sup>F35</sup>the Education Act 1996];

“local housing authority” has the same meaning as in the <sup>M17</sup>Housing Act 1985;

“mental nursing home” has the same meaning as in the <sup>M18</sup>Registered Homes Act 1984;

“nursing home” has the same meaning as in the Act of 1984;

[<sup>F38</sup>“officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000;]

“parental responsibility” has the meaning given in section 3;

“parental responsibility agreement” has the meaning given in section 4(1);

“prescribed” means prescribed by regulations made under this Act;

[<sup>F39</sup>“Primary Care Trust” means a Primary Care Trust established under section 16A of the National Health Service Act 1977;]

“privately fostered child” and “to foster a child privately” have the same meaning as in section 66;

“prohibited steps order” has the meaning given by section 8(1);

“protected child” has the same meaning as in Part III of the <sup>M19</sup>Adoption Act 1976;

“registered children’s home” has the same meaning as in section 63;

“registered pupil” has the same meaning as in [<sup>F35</sup>the Education Act 1996];

“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity) or step-parent;

“residence order” has the meaning given by section 8(1);

“residential care home” has the same meaning as in the Registered Homes Act 1984 [<sup>F40</sup> and “small home” has the meaning given by section 1(4A) of that Act];

“responsible person”, in relation to a child who is the subject of a supervision order, has the meaning given in paragraph 1 of Schedule 3;

“school” has the same meaning as in [<sup>F35</sup>the Education Act 1996] or, in relation to Scotland, in the <sup>M20</sup>Education (Scotland) Act 1980;

“service”, in relation to any provision made under Part III, includes any facility;

“signed”, in relation to any person, includes the making by that person of his mark;

“special educational needs” has the same meaning as in [<sup>F41</sup>the Education Act 1996];

[<sup>F42</sup>“Special Health Authority” means a Special Health Authority established under section 11 of the National Health Service Act 1977;]

“specific issue order” has the meaning given by section 8(1);

“supervision order” has the meaning given by section 31(11);

“supervised child” and “supervisor”, in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to be)

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under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

“upbringing”, in relation to any child, includes the care of the child but not his maintenance;

“voluntary home” has the meaning given by section 60;

“voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit.

- (2) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the <sup>M21</sup>Family Law Reform Act 1987 (which extends the meaning of such references).
- (3) References in this Act to—
  - (a) a person with whom a child lives, or is to live, as the result of a residence order; or
  - (b) a person in whose favour a residence order is in force,shall be construed as references to the person named in the order as the person with whom the child is to live.
- (4) References in this Act to a child who is looked after by a local authority have the same meaning as they have (by virtue of section 22) in Part III.
- (5) References in this Act to accommodation provided by or on behalf of a local authority are references to accommodation so provided in the exercise of functions [<sup>F43</sup>of that or any other local authority which are social services functions within the meaning of] the <sup>M22</sup>Local Authority Social Services Act 1970.
- [<sup>F44</sup>(5A) References in this Act to a child minder shall be construed—
  - (a) in relation to Scotland, in accordance with section 71;
  - (b) in relation to England and Wales, in accordance with section 79A.]
  - (6) In determining the “ordinary residence” of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—
    - (a) which is a school or other institution;
    - (b) in accordance with the requirements of a supervision order under this Act or an order under [<sup>F45</sup>section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000]; or
    - (c) while he is being provided with accommodation by or on behalf of a local authority.
  - (7) References in this Act to children who are in need shall be construed in accordance with section 17.
  - (8) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service at his proper address.
  - (9) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
  - (10) For the purposes of this section, and of section 7 of the <sup>M23</sup>Interpretation Act 1978 in its application to this section, the proper address of a person—

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- (a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;
- (b) in the case of a partner of a firm, shall be that of the principal office of the firm; and
- (c) in any other case, shall be the last known address of the person to be served.

### Textual Amendments

- F29** S. 105(1): words in the definition of “day care” inserted (2.7.2001 (E.) and 1.4.2002 (W.) otherwise *prosp.*) 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(iv)**; S.I. 2001/2041, art. 2(1)(d)(ii) (with transitional provisions and savings in **Sch.**); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F30** Definition of “district health authority” in s. 105(1) repealed (1.4.1996) by 1995 c. 17, ss.2(1), 5(1)(2), **Schs. 1, para. 118(10)(a), 3**(with Sch. 2 paras. 6, 16)
- F31** Definition in s. 105(1) inserted (1.10.1997) by 1996, c. 27, s. 52, Sch. 6 para. 5(with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3**
- F32** Definition of “health authority” in s. 105(1) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III, para. 118(10)(b)**(with Sch. 2 para. 6)
- F33** S. 105(1): words in the definition of “hospital” inserted (2.7.2001 (E.) and 1.4.2002 (W.) otherwise *prosp.*) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(v)**; S.I. 2001/2041, art. 2(1)(d)(ii) (with transitional provisions and savings in **Sch.**); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F34** Definition of “income-based jobseeker’s allowance” in s. 105 inserted (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(4)**; S.I. 1996/2208, **art. 2(b)**
- F35** Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37, Pt. I para. 91**(with Sch. 39, paras. 30, 39)
- F36** Words in s. 105(1) repealed (1.4.1996) by 1994 c. 19, ss. 22(4), s. 66(8), Sch. 10 para. 13, **Sch. 18**(with s. 66(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F37** Words in definition of “ local authority” in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 13** (with s. 66(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 4, **Sch. 2**.
- F38** S. 105(1): definition of “officer of the Service” inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 95**; S.I. 2001/919, **art. 2(f)(ii)**
- F39** S. 105(1): definition of “Primary Care Trust” inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(10)** (with art. 2(5))
- F40** Words in s. 105(1) inserted (1.4.1993) by Registered Homes Act 1991 (c. 20, SIF 113:3), s. 2(6); S.I. 1992/2240, **art. 2**.
- F41** Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I, para. 91**(with Sch. 39, paras. 30, 39)
- F42** Definition of “special health authority” in s. 105(1) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III, para. 118(10)(c)**(with Sch. 2 para. 6)
- F43** Words in s. 105(5) substituted (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 22**; S.I. 2000/2849, **art. 2(f)**
- F44** S. 105(5A) inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(b)**; S.I. 2001/2041, **art. 2(1)(d)(ii)** (with transitional provisions and savings in **Sch.**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in **Schs. 1-3**)
- F45** Words in s. 105(6)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 129**

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#### Commencement Information

**I19** S. 105 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

#### Marginal Citations

**M11** 1976 c. 36.

**M12** 1971 c. 80.

**M13** 1977 c.49.

**M14** 1977 c. 49.

**M15** 1983 c. 20.

**M16** 1968 c. 49.

**M17** 1985 c. 68.

**M18** 1984 c. 23.

**M19** 1976 c. 36.

**M20** 1980 c. 44.

**M21** 1987 c. 42.

**M22** 1970 c. 42.

**M23** 1978 c. 30.

### 106 Financial provisions. **E+W**

(1) Any—

(a) grants made by the Secretary of State under this Act; and

(b) any other expenses incurred by the Secretary of State under this Act,  
shall be payable out of money provided by Parliament.

(2) Any sums received by the Secretary of State under section 58, or by way of the repayment of any grant made under section 82(2) or (4) shall be paid into the Consolidated Fund.

#### Commencement Information

**I20** S. 106 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

### 107 Application to Channel Islands. **E+W**

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to any of the Channel Islands with such exceptions and modifications as may be specified in the Order.

#### Commencement Information

**I21** S. 107 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

### 108 Short title, commencement extent etc. **U.K.**

(1) This Act may be cited as the Children Act 1989.

(2) Sections 89 and 96(3) to (7), and paragraph 35 of Schedule 12, shall come into force on the passing of this Act and paragraph 36 of Schedule 12 shall come into force at the end of the period of two months beginning with the day on which this Act is passed

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- but otherwise this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or the Secretary of State, or by both acting jointly.
- (3) Different dates may be appointed for different provisions of this Act and in relation to different cases.
- (4) The minor amendments set out in Schedule 12 shall have effect.
- (5) The consequential amendments set out in Schedule 13 shall have effect.
- (6) The transitional provisions and savings set out in Schedule 14 shall have effect.
- (7) The repeals set out in Schedule 15 shall have effect.
- (8) An order under subsection (2) may make such transitional provisions or savings as appear to the person making the order to be necessary or expedient in connection with the provisions brought into force by the order, including—
- (a) provisions adding to or modifying the provisions of Schedule 14, and
  - (b) such adaptations—
    - (i) of the provisions brought into force by the order; and
    - (ii) of any provisions of this Act then in force,
 as appear to him necessary or expedient in consequence of the partial operation of this Act.
- (9) The Lord Chancellor may by order make such amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.
- (10) This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.
- (11) The following provisions of this Act extend to Scotland—
- section 19;
  - section 25(8);
  - section 50(13);
  - Part X;
  - section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);
  - section 88;
  - section 104 (so far as necessary);
  - section 105 (so far as necessary);
  - subsections (1) to (3), (8) and (9) and this subsection;
  - in Schedule 2, paragraph 24;
  - in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44;
  - in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71;
  - in Schedule 14, paragraphs 1, 33 and 34;
  - in Schedule 15, the entries relating to—
- (a) the <sup>M24</sup>Custody of Children Act 1891;
  - (b) the <sup>M25</sup>Nurseries and Child Minders Regulation Act 1948;
  - (c) section 53(3) of the <sup>M26</sup>Children and Young Persons Act 1963;
  - (d) section 60 of the <sup>M27</sup>Health Services and Public Health Act 1968;

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- (e) the <sup>M28</sup>Social Work (Scotland) Act 1968;
- (f) the <sup>M29</sup>Adoption (Scotland) Act 1978;
- (g) the <sup>M30</sup>Child Care Act 1980;
- (h) the <sup>M31</sup>Foster Children (Scotland) Act 1984;
  - (i) the <sup>M32</sup>Child Abduction and Custody Act 1985; and
- (j) the <sup>M33</sup>Family Law Act 1986.

- (12) The following provisions of this Act extend to Northern Ireland—
- section 50;
  - section 101(1)(b), (2) and (5)(a)(i);
  - subsections (1) to (3), (8) and (9) and this subsection;
  - in Schedule 2, paragraph 24;
  - in Schedule 12, paragraphs 7 to 10, 18 and 27;
  - in Schedule 13, paragraphs 21, 22, 46, 47, 57, 62, 63, 68(c) to (e) and 69 to 71;
  - in Schedule 14, paragraphs <sup>F46</sup> . . . , 28 to 30 and 38(a); and
  - in Schedule 15, the entries relating to the <sup>M34</sup>Guardianship of Minors Act 1971, the <sup>M35</sup>Children Act 1975, the Child Care Act 1980, and the Family Law Act 1986.

#### Extent Information

- E2** S. 108 extends to England and Wales, except s. 108(1)(3)(8)(9) which extend to the United Kingdom. See s. 108(11)(12).

#### Textual Amendments

- F46** Word in s. 108(12) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 25, Sch. 20; S.I. 1991/1883, art. 3, Sch.

#### Marginal Citations

- M24** 1891 c. 3.  
**M25** 1948 c. 53.  
**M26** 1963 c. 37.  
**M27** 1968 c. 46.  
**M28** 1968 c. 49.  
**M29** 1978 c. 28.  
**M30** 1980 c. 5.  
**M31** 1984 c. 56.  
**M32** 1985 c. 60.  
**M33** 1986 c. 55.  
**M34** 1971 c. 3.  
**M35** 1975 c. 72



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