



# Children Act 1989

## 1989 CHAPTER 41

### PART XII

#### MISCELLANEOUS AND GENERAL

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

#### **85 Children accommodated by health authorities and local education authorities.**

- (1) Where a child is provided with accommodation by any [<sup>F1</sup>[<sup>F2</sup>Local Health Board], Special Health Authority,]<sup>F3</sup>Primary Care Trust,]<sup>F4</sup>National Health Service trust]<sup>F5</sup>or NHS foundation trust or by a local authority in the exercise of education functions] (“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 [<sup>F6</sup>the appropriate officer of] the responsible authority.
- (2) Where subsection (1) applies with respect to a child, the accommodating authority shall also notify [<sup>F7</sup>the appropriate officer of] the responsible authority when they cease to accommodate the child.
- [<sup>F8</sup>(2A) In a case where the child is provided with accommodation by a local authority in the exercise of education functions, subsections (1) and (2) apply only if the local authority providing the accommodation is different from the responsible authority.]
- (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.

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- [<sup>F9</sup>(3A) In this section and sections 86 and 86A “ the appropriate officer ” means—
- (a) in relation to a local authority in England, their director of children's services; and
  - (b) in relation to a local authority in Wales, their lead director for children and young people's services.]
- (4) Where [<sup>F10</sup>the appropriate officer of a local authority has] been notified under this section, [<sup>F11</sup>the local authority] 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
  - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.
- [<sup>F12</sup>(5) For the purposes of subsection (4)(b), if the child is not in the area of the local authority, they must treat him as if he were in that area.]

#### 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) substituted (1.4.2007) by The References to **Health Authorities Order 2007** (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(2)(h)**
- F3** 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))
- F4** Words inserted by **National Health Service and Community Care Act 1990** (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(5)**
- F5** Words in s. 85(1) substituted (5.5.2010) by **The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010** (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(10)(a)**
- F6** Words in s. 85(1) inserted (1.4.2011) by **Children and Young Persons Act 2008** (c. 23), **ss. 17(2)**, 44; S.I. 2010/2981, **art. 2(a)**
- F7** Words in s. 85(2) inserted (1.4.2011) by **Children and Young Persons Act 2008** (c. 23), **ss. 17(2)**, 44; S.I. 2010/2981, **art. 2(a)**
- F8** S. 85(2A) inserted (5.5.2010) by **The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010** (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(10)(b)**
- F9** S. 85(3A) inserted (1.4.2011) by **Children and Young Persons Act 2008** (c. 23), **ss. 17(3)**, 44; S.I. 2010/2981, **art. 2(a)**
- F10** Words in s. 85(4) substituted (1.4.2011) by **Children and Young Persons Act 2008** (c. 23), **ss. 17(4)(a)**, 44; S.I. 2010/2981, **art. 2(a)**
- F11** Words in s. 85(4) substituted (1.4.2011) by **Children and Young Persons Act 2008** (c. 23), **ss. 17(4)(b)**, 44; S.I. 2010/2981, **art. 2(a)**
- F12** S. 85(5) added (1.4.2011) by **Children and Young Persons Act 2008** (c. 23), **ss. 17(5)**, 44; S.I. 2010/2981, **art. 2(a)**

#### Commencement Information

- I1** S. 85 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 86 [<sup>F13</sup> Children accommodated in care homes or independent hospitals.]

- (1) Where a child is provided with accommodation in any [<sup>F14</sup>care home or independent hospital]—

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- (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 [<sup>F15</sup>the establishment in question] shall notify [<sup>F16</sup>the appropriate officer of] the local authority within whose area [<sup>F17</sup>the establishment] is carried on.
- (2) Where subsection (1) applies with respect to a child, the person carrying on [<sup>F18</sup>the establishment] shall also notify [<sup>F19</sup>the appropriate officer of] that authority when he ceases to accommodate the child in [<sup>F18</sup>the establishment] .
- (3) Where [<sup>F20</sup>the appropriate officer of a local authority has] been notified under this section, [<sup>F21</sup>the local authority] 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 [<sup>F22</sup>the establishment in question] ; 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 [<sup>F23</sup>care home or independent hospital] 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 [<sup>F14</sup>care home or independent hospital] 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.

#### Textual Amendments

- F13** S. 86: sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(20)(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)
- F14** Words in s. 86(1)(5) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(20)(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)
- F15** Words in s. 86(1) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(7)(a)**, 44; S.I. 2010/2981, {art. 2(a)}
- F16** Words in s. 86(1) inserted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(7)(b)**, 44; S.I. 2010/2981, {art. 2(a)}
- F17** Words in s. 86(1) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(7)(c)**, 44; S.I. 2010/2981, {art. 2(a)}
- F18** Words in s. 86(2) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(8)(a)**, 44; S.I. 2010/2981, {art. 2(a)}
- F19** Words in s. 86(2) inserted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(8)(b)**, 44; S.I. 2010/2981, {art. 2(a)}

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- F20** Words in s. 86(3) substituted (1.4.2011) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 17(9)(a)**, 44; [S.I. 2010/2981](#), {art. (2(a))}
- F21** Words in s. 86(3) substituted (1.4.2011) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 17(9)(b)**, 44; [S.I. 2010/2981](#), {art. (2(a))}
- F22** Words in s. 86(3)(a) substituted (1.4.2011) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 17(9)(c)**, 44; [S.I. 2010/2981](#), {art. (2(a))}
- F23** Words in s. 86(4) substituted (1.4.2011) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 17(10)**, 44; [S.I. 2010/2981](#), {art. (2(a))}

#### 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)**

### [<sup>F24</sup>86A Visitors for children notified to local authority under section 85 or 86

- (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

- F24** 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 [<sup>F25</sup>Welfare of children in boarding schools and colleges.]

- [<sup>F26</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.

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- [ For the purposes of this section and sections 87A to 87D, a school or college provides<sup>F27</sup>(1A) accommodation for a child if—
- (a) it provides accommodation for the child on its own premises, or
  - (b) it arranges for accommodation for the child to be provided elsewhere (other than in connection with a residential trip away from the school).]
- (2) Subsection (1) does not apply in relation to a school or college which is a children’s home or care home.
- (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 [F28accommodation for the child is provided] by the school or college.
- [ Where accommodation is provided for a child by a school or college in England, the<sup>F29</sup>(3A) Secretary of State may at any time (including a time when the duty under subsection (3) is suspended by virtue of section 87A) direct the Chief Inspector for England to take the steps referred to in subsection (3).
- (3B) Where accommodation is provided for a child by a school or college in Wales, the Welsh Ministers may, at any time when the duty under subsection (3) is suspended by virtue of section 87A, take the steps referred to in subsection (3).]
- (4) Where [F30the Chief Inspector for England is] 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 [F31college in England, he shall]—
- (a) in the case of a school other than an independent school [F32, an alternative provision Academy that is not an independent school] or a special school, notify the [F33local authority] for the area in which the school is situated;
  - (b) in the case of a special school which is maintained by a [F33local 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 [F34in Wales], they shall—
- (a) in the case of a school other than an independent school or a special school, notify the [F33local authority] for the area in which the school is situated;
  - (b) in the case of a special school which is maintained by a [F33local 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 [F35any of its functions] under this section, enter at any time premises which are, or are to be, premises of the school or college.]
- (6) Any person [F36exercising] 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—

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- (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>F37</sup>(9A) Where [<sup>F38</sup>the Chief Inspector for England] or the National Assembly for Wales exercises the power conferred by subsection (5) in relation to a child, [<sup>F39</sup>that authority must] publish a report on whether the child’s welfare is adequately safeguarded and promoted while [<sup>F40</sup>accommodation for the child is provided] by the school or college.
- (9B) Where [<sup>F41</sup>the Chief Inspector for England] or the National Assembly for Wales publishes a report under this section, it must—
- (a) send a copy of the report to the school or college concerned; and
  - (b) make copies of the report available for inspection at its offices by any person at any reasonable time.
- (9C) Any person who requests a copy of a report published under this section is entitled to have one on payment of such reasonable fee (if any) as [<sup>F42</sup>the Chief Inspector for England] or the National Assembly for Wales (as the case may be) considers appropriate.]
- [<sup>F43</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, [<sup>F44</sup>the Chief Inspector for England];
  - (b) in relation to Wales, the National Assembly for Wales;
- [<sup>F45</sup>“ the Chief Inspector for England ” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;]
- “college” means an institution within the further education sector as defined in section 91 of the 1992 Act [<sup>F46</sup>or a 16 to 19 Academy] ;
- <sup>F47</sup> .....
- “further education corporation” has the same meaning as in the 1992 Act;
- [<sup>F33</sup>local authority] and “proprietor” have the same meanings as in the <sup>M2</sup> Education Act 1996
- [<sup>F48</sup>“sixth form college corporation” has the same meaning as in the 1992 Act.]
- (11) In this section and sections 87A and 87D “ relevant person ” means—
- (a) in relation to an independent school [<sup>F49</sup>or an alternative provision Academy that is not 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;

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(c) in relation to an institution conducted by a further education corporation [<sup>F50</sup>or sixth form college corporation], the corporation.

[<sup>F51</sup>(d) in relation to a 16 to 19 Academy, the proprietor of the Academy.]

(12) Where a person other than the proprietor of an independent school [<sup>F52</sup>or an alternative provision Academy that is not 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

- F25** S. 87: sidenote substituted (1.4.2002 for E.) by 2000 c. 14, s. 116, **Sch. 4 para. 14(21)**; 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**)
- F26** 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 1.2.2003 (W.)) 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)); S.I. 2003/152, **art. 2(2)**
- F27** S. 87(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(a)**, 82(3); S.I. 2012/84, art. 3
- F28** Words in s. 87(3) substituted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(b)**, 82(3); S.I. 2012/84, art. 3
- F29** S. 87(3A)(3B) inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(c)**, 82(3); S.I. 2012/84, art. 3
- F30** Words in s. 87(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(2)(a)**; S.I. 2007/935, **art. 5(gg)**
- F31** Words in s. 87(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(2)(b)**; S.I. 2007/935, **art. 5(gg)**
- F32** Words in s. 87(4)(a) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), art. 1, **Sch. para. 2(a)** (with art. 3)
- F33** Words in s. 87(4)(4A)(10) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(11)**
- F34** Words in s. 87(4A) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(3)**; S.I. 2007/935, **art. 5(gg)**
- F35** Words in s. 87(5) substituted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(d)**, 82(3); S.I. 2012/84, art. 3
- F36** 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 1.2.2003 (W.)) 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)); S.I. 2003/152, **art. 2(2)**
- F37** S. 87(9A)-(9C) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 111**; S.I. 2004/759, **art. 7**; S.I. 2004/873, **art. 2(e)**
- F38** Words in s. 87(9A) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F39** Words in s. 87(9A) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F40** Words in s. 87(9A) substituted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(e)**, 82(3); S.I. 2012/84, art. 3
- F41** Words in s. 87(9B) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**

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- F42** Words in s. 87(9C) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F43** 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 1.2.2003 (W.)) 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**); S.I. 2003/152, **art. 2(2)**
- F44** Words in s. 87(10) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(5)(a)**; S.I. 2007/935, **art. 5(gg)**
- F45** S. 87(10): definition of "the Chief Inspector for England" inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(5)(b)**; S.I. 2007/935, **art. 5(gg)**
- F46** Words in s. 87(10) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 6(4)(a)**; S.I. 2012/924, **art. 2**
- F47** S. 87(10): definition of "the Commission" repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, **Sch. 14 para. 16(5)(c)**, **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5(gg)(ii)**
- F48** Words in s. 87(10) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), **art. 2(1)** {**Sch. 1** para. 90(a)}
- F49** Words in s. 87(11)(a) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), **art. 1**, **Sch. para. 2(b)** (with **art. 3**)
- F50** Words in s. 87(11)(c) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), **art. 2(1)** {**Sch. 1** para. 90(b)}
- F51** S. 87(11)(d) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 6(4)(b)**; S.I. 2012/924, **art. 2**
- F52** Words in s. 87(12) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), **art. 1**, **Sch. para. 2(c)** (with **art. 3**)

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

- C1** S. 87: transfer of functions (1.4.2004 for E.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 110**; S.I. 2004/759, **art. 4(2)(a)**  
S. 87: 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. 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>F53</sup> 87A Suspension of duty under section 87(3).

- (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 schools or colleges to which section 87(1) applies, and
  - (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 or colleges is adequately safeguarded and promoted while [<sup>F54</sup> accommodation for the children is provided] by them.



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- (2) Where—
- (a) the relevant person 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 or college the function of determining whether section 87(1) is being complied with, and
  - (c) the appropriate authority receive from the person mentioned in paragraph (b) (“the inspector”) notice in writing that the agreement has come into effect,
- the appropriate authority’s duty under section 87(3) in relation to the school or college shall be suspended.
- (3) Where the appropriate authority’s duty under section 87(3) in relation to any school or college is suspended under this section, it shall cease to be so suspended if the appropriate authority receive—
- (a) a notice under subsection (4) relating to the inspector, or
  - (b) a notice under subsection (5) relating to the relevant 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 the appropriate authority.
- [ The Secretary of State may by regulations specify matters that must be taken into
- <sup>F55</sup>(4A) account in deciding whether to appoint a person to be an inspector for the purposes of this section in relation to schools or colleges in England, or to terminate the appointment of such a person under subsection (4)(b).]
- (5) Where—
- (a) the appropriate authority’s duty under section 87(3) in relation to any school or college is suspended under this section, and
  - (b) the relevant agreement ceases to have effect,
- the inspector shall give to the appropriate authority notice in writing of the fact that it has ceased to have effect.
- (6) In this section references to the relevant agreement, in relation to the suspension of the appropriate authority’s duty under section 87(3) as regards any school or college, are to the agreement by virtue of which the appropriate authority’s duty under that provision as regards that school or college is suspended.]

#### Textual Amendments

- F53** S. 87A substituted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(1), 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)
- F54** Words in s. 87A(1)(b) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 43(3)(a), 82(3); S.I. 2012/84, art. 3
- F55** S. 87A(4A) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 43(3)(b), 82(3); S.I. 2012/84, art. 3

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

- C2** S. 87A: 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>F56</sup> [ 87B Duties of inspectors under section 87A.

- (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 [<sup>F57</sup>or college] to which the agreement relates, the inspector shall give notice of that fact
  - <sup>F58</sup>(a) in the case of a school other than an independent school [<sup>F59</sup>, an alternative provision Academy that is not an independent school] or a special school, to the [<sup>F60</sup>local authority] for the area in which the school is situated;
  - (b) in the case of a special school which is maintained by a [<sup>F60</sup>local authority], to that authority;
  - (c) in any other case, 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 [<sup>F61</sup>or college] 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 [<sup>F61</sup>or college] 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 [<sup>F61</sup>or college].
- <sup>F62</sup>(4) In this section “substitution agreement” means an agreement by virtue of which the duty of the appropriate authority under section 87(3) in relation to a school or college is suspended.]

#### Textual Amendments

- F56** Ss. 87A, 87B inserted (1.1.1996) by [1995 c. 40, s. 38](#); [S.I. 1995/2835](#), **art. 2**
- F57** Words in s. 87B(2) inserted (1.4.2002 (E.) and 1.2.2003 (W.)) by [2000 c. 14, ss. 106\(2\)\(a\), 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\(2\)](#)
- F58** S. 87B(2)(a)(b)(c) substituted for the words “to the Secretary of State” in s. 87B(2) (1.4.2002 (E.) and 1.2.2003 (W.)) by [2000 c. 14, ss. 106\(2\)\(b\), 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\(2\)](#)

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- F59** Words in s. 87B(2)(a) inserted (1.4.2012) by [The Alternative Provision Academies \(Consequential Amendments to Acts\) \(England\) Order 2012 \(S.I. 2012/976\)](#), art. 1, **Sch. para. 3** (with art. 3)
- F60** Words in s. 87B(2) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 37(12)**
- F61** Words in s. 87B(2)(3)(a)(b) inserted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(a), 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)**
- F62** S. 87B(4) substituted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(c), 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)**

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

- C3** S. 87B: 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>F63</sup> 87BA Quality assurance of inspectors under section 87A**

- (1) The Chief Inspector for England must, at intervals of no more than a year, prepare and send to the Secretary of State a report about inspectors who are appointed under section 87A in relation to schools or colleges in England.
- (2) In preparing a report under this section the Chief Inspector for England must have regard to such matters as the Secretary of State may direct.
- (3) The Secretary of State may in particular give directions about—
  - (a) matters to be taken into account in preparing a report, and
  - (b) the form and contents of a report.]

**Textual Amendments**

- F63** S. 87BA inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 43(4)**, 82(3); S.I. 2012/84, art. 3

**[<sup>F64</sup> 87C Boarding schools: national minimum standards.**

- (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 [<sup>F65</sup>by] 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);
  - (b) in the making by a person appointed under section 87A(1) of any determination under section 87B(2); and

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- (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

- F64** 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))
- F65** Word in s. 87C(1) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 43(5), 82(3); S.I. 2012/84, art. 3

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

- C4** 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>F66</sup>87D Annual fee for boarding school inspections.

- (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

- F66** 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)

- C5** 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.

<sup>F67</sup>(1) .....

<sup>F68</sup>(2) .....

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#### Textual Amendments

- F67** S. 88(1) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 67, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o); S.I. 2005/2897, art. 2(b)
- F68** S. 88(2) repealed (E.W.) (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), Sch. 2 Pt. 3 (repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), Sch. 3; S.S.I. 2009/267, art. 2)

#### 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

### *Paternity tests*

**F69**<sup>89</sup> .....

#### Textual Amendments

- F69** 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.**

- (1) The power of a court to make an order under subsection (2) of section 1 of the <sup>M3</sup>Children and Young Persons Act 1969 (care proceedings in [<sup>F70</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

- F70** 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)

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### Marginal Citations

M3 1969 c. 54.

### *Effect and duration of orders etc.*

#### 91 Effect and duration of orders etc.

- (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.
- [<sup>F71</sup>(2A) Where a contact activity direction has been made as regards contact with a child, the making of a care order with respect to the child discharges the direction.]
- (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 [<sup>F72</sup>section 437 of the Education Act 1996] discharges the school attendance order.
- [<sup>F73</sup>(5A) The making of a special guardianship order with respect to a child who is the subject of—
  - (a) a care order; or
  - (b) an order under section 34,
 discharges that 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) [<sup>F74</sup>4ZA(1),][<sup>F75</sup>4A(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 [<sup>F76</sup>, 4ZA][<sup>F77</sup>or 4A]; 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 [<sup>F78</sup>other than a residence 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)<sup>F79</sup>. . . .
- (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.

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- (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;
  - (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

- F71** S. 91(2A) inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 9**; S.I. 2008/2870, **art. 2(2)(e)**
- F72** 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)
- F73** S. 91(5A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 68(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F74** Words in s. 91(7) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 29(a)**; S.I. 2009/479, **art. 6(1)(e)**
- F75** Words in s. 91(7) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 68(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F76** Words in s. 91(8)(a) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 29(b)**; S.I. 2009/479, **art. 6(1)(e)**
- F77** Words in s. 91(8) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 68(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F78** Words in s. 91(10) inserted (1.9.2009) by Children and Young Persons Act 2008 (c. 23), ss. 37(3)(a), 44; S.I. 2009/1921, **art. 2(b)**; S.I. 2009/2273, **art. 2(2)(k)**
- F79** Words in s. 91(10) repealed (1.9.2009) by Children and Young Persons Act 2008 (c. 23), ss. 37(3)(b), 42, 44, **Sch. 4**; S.I. 2009/1921, **art. 2(b)(d)**; S.I. 2009/2273, **art. 2(2)(k)(m)**

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#### Commencement Information

**16** 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.

- (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>M4</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.
- (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 [<sup>F80</sup>, after consulting the Lord Chief Justice,] 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 [<sup>F81</sup>, after consulting the Lord Chief Justice,] 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.

[<sup>F82</sup>(10A) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (9) or (10).]



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(11) Part II of Schedule 11 makes amendments consequential on this section.

#### Textual Amendments

- F80** Words in s. 92(9) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 para. 205\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(r)
- F81** Words in s. 92(10) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 para. 205\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(r)
- F82** S. 92(10A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 para. 205\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(r)

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

- C6** 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](#)
- C7** 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

- M4** 1980 c. 43.

## 93 Rules of court.

- (1) An authority having power to make rules of court may make such provision for giving effect to—
- this Act;
  - the provisions of any statutory instrument made under this Act; or
  - 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—
- 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);
  - 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;
  - <sup>F83</sup>(bb) for children to be separately represented in relevant proceedings;
  - with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
  - 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;
  - with respect to preliminary hearings;

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- (f) for the service outside [<sup>F84</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>F85</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

- F83** S. 93(2)(bb) inserted (7.12.2004) by 2002 c. 38, ss. 122(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(l)**
- F84** 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.**
- F85** 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.**

#### Commencement Information

- I8** S. 93 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 94 Appeals.

- (1) [<sup>F86</sup>Subject to any express provisions to the contrary made by or under this Act, an] appeal shall lie to [<sup>F87</sup>a county court] against—
- (a) the making by a magistrates' court of any order under this Act [<sup>F88</sup>or the Adoption and Children Act 2002] ; or

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- (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 [<sup>F88</sup>or the Adoption and Children Act 2002] , 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, [<sup>F87</sup>a county 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) [<sup>F87</sup>a county 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, [<sup>F87</sup>a county 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, [<sup>F87</sup>a county 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 [<sup>F89</sup>the county 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 [<sup>F87</sup>a county 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 [<sup>F87</sup>a county court ].
- (10) The Lord Chancellor may [<sup>F90</sup>, after consulting the Lord Chief Justice,] 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.
- (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.
- [<sup>F91</sup>(12) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (10).]

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#### Textual Amendments

- F86** 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.**
- F87** Words in s. 94 substituted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 7(2)** (with art. 16)
- F88** Words in s. 94(1)(a)(2) inserted (30.12.2005) by 2002 c. 38, ss. 100, 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(h)**
- F89** Words in s. 94(8)(a) substituted (6.4.2009) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I. 2009/871), **art. 7(3)** (with art. 16)
- F90** Words in s. 94(10) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 206(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)
- F91** S. 94(12) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 206(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

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

- C8** S. 94 modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), **reg. 6**

#### 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.

- (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—
  - (a) an order under subsection (1) has not been complied with; or
  - (b) 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—
  - (a) to take charge of the child and to bring him to the court; and
  - (b) 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)**

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## 96 Evidence given by, or with respect to, children.

- (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—
  - (a) he understands that it is his duty to speak the truth; and
  - (b) he has sufficient understanding to justify his evidence being heard.
- (3) The Lord Chancellor may [<sup>F92</sup>, with the concurrence of the Lord Chief Justice,] 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>F93</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

- F92** Words in s. 96(3) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 para. 207](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(r\)](#)
- F93** 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.

- (1) [<sup>F94</sup> Family Procedure Rules] may make provision for a magistrates' court to sit in private in proceedings in which any powers under this Act [<sup>F95</sup> or the Adoption and Children Act 2002] may be exercised by the court with respect to any child.

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- (2) No person shall publish [<sup>F96</sup>to the public at large or any section of the public] any material which is intended, or likely, to identify—
- (a) any child as being involved in any proceedings before [<sup>F97</sup>the High Court, a county court or] a magistrates' court in which any power under this Act [<sup>F95</sup>or the Adoption and Children Act 2002] 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.
- (4) The court or the [<sup>F98</sup>Lord Chancellor] may, if satisfied that the welfare of the child requires it [<sup>F99</sup>and, in the case of the Lord Chancellor, if the Lord Chief Justice agrees] , 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—
- (a) [<sup>F100</sup>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—
- <sup>F101</sup>(a) .....
  - (b) any other power of a magistrates' court to sit in private.
- (8) [<sup>F102</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>F103</sup>(before a magistrates' court)] to which this section applies subject to the provisions of this section.
- <sup>F104</sup>(9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (4).]

#### Textual Amendments

- F94** Words in s. 97(1) substituted (6.4.2011) by [Courts Act 2003 \(c. 39\), ss. 109\(1\), 110, Sch. 8 para. 337\(2\); S.I. 2010/2921, art. 3\(b\)](#)
- F95** Words in s. 97(1)(2) inserted (30.12.2005) by [2002 c. 38, ss. 101\(3\), 148 \(with Sch. 4 paras. 6-8\); S.I. 2005/2213, art. 2\(h\)](#)
- F96** Words in s. 97(2) inserted (12.4.2005) by [Children Act 2004 \(c. 31\), s. 62\(1\); S.I. 2005/847, art. 2](#)
- F97** Words in s. 97(2) inserted (27.9.1999) by [1999 c. 22, ss. 72, 108\(3\) \(with s. 107, Sch. 14 para. 7\(2\)\)](#)
- F98** Words in s. 97(4) substituted (1.4.1992) by [S.I. 1992/709, art. 3\(2\), Sch. 2 \(with art. 5\(2\)\)](#).
- F99** Words in s. 97(4) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 para. 208\(2\); S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(r\)](#)
- F100** Words in s. 97(5) substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\), s. 203\(1\), Sch. 20 para. 53](#)

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- F101** S. 97(7)(a) repealed (6.4.2011) by Courts Act 2003 (c. 39), ss. 109, 110, Sch. 8 para. 337(3), **Sch. 10**; S.I. 2010/2921, **art. 3(c)**
- F102** 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.**
- F103** 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))
- F104** S. 97(9) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15(1), **Sch. 4 para. 208(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

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

- C9** 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))
- C10** 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)**

**98 Self-incrimination.**

- (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, on the ground that doing so might incriminate him or his spouse [<sup>F105</sup>or civil partner] 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 [<sup>F105</sup>or civil partner] in proceedings for an offence other than perjury.

**Textual Amendments**

- F105** Words in s. 98(1)(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 261(1), **Sch. 27 para. 132**; S.I. 2005/3175, **art. 2(2)** (subject to arts. 2(3)-(5))

**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)**

**F106**<sup>99</sup> .

- (1) .....
- F106**(2) .....
- F106**(3) .....
- F106**(4) .....
- F106**(5) .....

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### Textual Amendments

**F106** 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. 1 (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.

- (1) Section 7 of the <sup>M5</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—
  - (a) so as to require a child to be placed in the care, or put under the supervision, of a local authority;
  - (b) so as to require a child to be accommodated by or on behalf of a local authority;
  - (c) so as to make a child who is the subject of a care order a ward of court; or
  - (d) 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—
  - (a) 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
  - (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

**M5** 1969 c. 46.

## 101 Effect of orders as between England and Wales and Northern Ireland, the Channel Islands or the Isle of Man.

- (1) The Secretary of State may make regulations providing—
  - (a) for prescribed orders which—
    - (i) are made by a court in Northern Ireland; and



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- (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—
    - (i) section 25 of the <sup>M6</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**

**M6** 1969 c. 54.

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### *Search warrants*

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

- (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>F107</sup>registered midwife] if he so chooses.

[<sup>F108</sup>(3A) The reference in subsection (3) to a registered midwife is to such a midwife who is also registered in the Specialist Community Public Health Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001.]

- (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,

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, [<sup>F109</sup>76,][<sup>F110</sup>79U,] 80, 86 and 87;
  - (b) paragraph 8(1)(b) and (2)(b) of Schedule 3;
  - (c) <sup>F111</sup> .....

#### **Textual Amendments**

**F107** 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)

**F108** S. 102(3A) inserted (1.8.2004) by **The Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004** (S.I. 2004/1771), art. 3, **Sch. para. 4(e)**

**F109** Words in s. 102(6)(a) repealed (S.) (1.4.2002) by 2001 asp 8, ss. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

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**F110** Words in s. 102(6)(a) inserted (1.4.2002 for W. and otherwise *prosp.*) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(22)**; S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10)) (subject to transitional provisions in Schs. 1-3)

**F111** S. 102(6)(c) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 69, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

#### 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)**

### General

#### 103 Offences by bodies corporate.

- (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**

- (1) Any power of the Lord Chancellor [<sup>F112</sup>, the Treasury][<sup>F113</sup>, the Secretary of State or the National Assembly for Wales] under this Act to make an order, regulations, or rules, except an order under section [<sup>F114</sup>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 [<sup>F115</sup>4(1B), [<sup>F116</sup>4ZA(3),] 17(4), 107 or 108(2) [<sup>F117</sup> or one containing regulations which fall within subsection (3B) or (3C)], shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F118</sup>(2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales.]
- [<sup>F119</sup>(3) An order under section [<sup>F120</sup>4(1B) [<sup>F121</sup>, 4ZA(3)]] . . . shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (3A) An order under section 4(1B) [<sup>F122</sup>, 4ZA(3)] or 17(4) or regulations which fall within subsection (3B) or (3C) shall not be made by the Secretary of State unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
  - (3B) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by section 23C(5B)(b).

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- (3C) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by paragraph 6(2) of Schedule 2.]
- (4) Any statutory instrument made under this Act may—
- (a) make different provision for different cases;
  - (b) provide for exemptions from any of its provisions; and
  - (c) contain <sup>F123</sup> . . . incidental, supplemental and transitional provisions <sup>F123</sup> . . . .

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland

#### Textual Amendments

- F112** Words in s. 104 inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 19; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F113** Words in s. 104(1) substituted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 10(a)**; S.I. 2008/2870, **art. 2(2)(e)**
- F114** Words in s. 104(1) repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **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)
- F115** Word in s. 104(2) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**
- F116** Words in s. 104(2) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(a)**; S.I. 2009/479, **art. 6(1)(e)**
- F117** Words in s. 104(2) inserted (E.W.) (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(2)**
- F118** S. 104(2A) inserted (8.12.2008 for S.) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, Sch. 2 para. 10(b) and omitted (E.W.) (13.11.2008) by Children and young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(3)** and repealed (E.W.) (1.4.2011 for E., otherwise prosp.) by s. 42, {Sch. 4} of the same Act; S.I. 2008/2870, **art. 2(2)(e)**; S.I. 2010/2891, **art. 4(1)**
- F119** S. 104(3A)-(3C) substituted (E.W.) (13.11.2008) for s. 104(3) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(4)**
- F120** Words in s. 104(3) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**
- F121** Words in s. 104(3) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(b)**; S.I. 2009/479, **art. 6(1)(e)**
- F122** Words in s. 104(3A) inserted (1.9.2009) by The Human Fertilisation and Embryology (Consequential Amendments and Transitional and Saving Provisions) Order 2009 (S.I. 2009/1892), art. 2, **Sch. 1 para. 2**
- F123** Words in s. 104(4)(c) repealed (E.W.) (13.11.2008) by Children and Young persons Act 2008 (c. 23), ss. 39, 42, 44, {Sch. 3 para. 25(5)}, {Sch. 4}

#### 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)**

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## **[<sup>F124</sup>104A] Regulations and orders made by the Welsh Ministers under Part 3 etc.**

- (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**

**F124** 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.**

- (1) In this Act—

“adoption agency” means a body which may be referred to as an adoption agency by virtue of [<sup>F125</sup>section 2 of the Adoption and Children Act 2002];

[<sup>F126</sup>[<sup>F127</sup>“appropriate children’s home” has the meaning given by section 23;]]

“bank holiday” means a day which is a bank holiday under the <sup>M7</sup>Banking and Financial Dealings Act 1971;

[<sup>F128</sup>“care home” has the same meaning as in the Care Standards Act 2000;

“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 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);

[<sup>F129</sup>“child minder” has the meaning given by section 71;

[<sup>F130</sup>“child of the family”, in relation to parties to a marriage, or to two people who are civil partners of each other, means—

- (a) a child of both of them, and

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- (b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both of them as a child of their family.]
- [<sup>F131</sup>“children's home” has the same meaning as it has for the purposes of the Care Standards Act 2000 (see section 1 of that Act);]
- “community home” has the meaning given by section 53;
- [<sup>F132</sup>“contact activity condition” has the meaning given by section 11C;]
- [<sup>F133</sup>“contact activity direction” has the meaning given by section 11A;]
- “contact order” has the meaning given by section 8(1);
- “day care” <sup>F134</sup> . . . has the same meaning as in section 18;
- “disabled”, in relation to a child, has the same meaning as in section 17(11);
- <sup>F135</sup> . . .
- “domestic premises” has the meaning given by section 71(12);
- [<sup>F136</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;
- [<sup>F137</sup>“education functions” has the meaning given by section 579(1) of the Education Act 1996; ]
- “education supervision order” has the meaning given in section 36;
- “emergency protection order” means an order under section 44;
- [<sup>F138</sup>“enforcement order” has the meaning given by section 11J;]
- “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>F139</sup> . . . . .
- “health service hospital” [<sup>F140</sup>means a health service hospital within the meaning given by the National Health Service Act 2006 or the National Health Service (Wales) Act 2006]
- “hospital” <sup>F141</sup> . . . has the same meaning as in the <sup>M8</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>F142</sup>“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]
- [<sup>F143</sup>“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);]
- [<sup>F144</sup>“independent hospital”

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(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;]

“independent school” has the same meaning as in [F145the Education Act 1996];

“local authority” means, in relation to England F146. . . , the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London [F147; 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 M9Social Work (Scotland) Act 1968;

[F148“local authority foster parent” has the meaning given in section 22C(12);]

F149

[F150“Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;]

“local housing authority” has the same meaning as in the M10Housing Act 1985;

[F151“mental nursing home” has the same meaning as in the M11Registered Homes Act 1984;]

[F152“nursing home” has the same meaning as in the Act of 1984;]

[F153“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 [F154sections 4(1) [F155, 4ZA(4)]and 4A(2)];

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

[F156“private children’s home” means a children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000 which is not a community home or a voluntary home;]

[F157“Primary Care Trust” means a Primary Care Trust established under [F158section 18 of the National Health Service Act 2006];

“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);

F159

[F160“registered children’s home” has the same meaning as in section 63;]

“registered pupil” has the same meaning as in [F145the 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 [F161by marriage or civil partnership]) or step-parent;

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

[F162“residential care home” has the same meaning as in the Registered Homes Act 1984 [F163 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;

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“school” has the same meaning as in [<sup>F145</sup>the Education Act 1996] or, in relation to Scotland, in the <sup>M12</sup>Education (Scotland) Act 1980;

[<sup>F164</sup>“section 31A plan” has the meaning given by section 31A(6);]

“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>F165</sup>the Education Act 1996];

[<sup>F166</sup>“special guardian” and “special guardianship order” have the meaning given by section 14A;]

[<sup>F167</sup>“Special Health Authority” means a Special Health Authority established under [<sup>F168</sup>section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006,];]

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

[<sup>F169</sup>“Strategic Health Authority” means a Strategic Health Authority established under [<sup>F170</sup>section 13 of the National Health Service Act 2006,];]

“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) 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.

[<sup>F171</sup>“Welsh family proceedings officer” has the meaning given by section 35 of the Children Act 2004.]

- (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>M13</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>F172</sup>of that or any other local authority which are social services functions within the meaning of] the <sup>M14</sup>Local Authority Social Services Act 1970.
- (5A) <sup>F173</sup> .....



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[References in this Act to acting as a child minder and to a child minder shall be <sup>F174</sup>(5B) construed, in relation to Scotland, in accordance with section 2(17) of the Regulation of Care (Scotland) Act 2001 (asp 8).]

(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

<sup>F175</sup> . . . .  
[ in accordance with the requirements of a youth rehabilitation order under Part <sup>F176</sup>(ba) 1 of the Criminal Justice and Immigration Act 2008; 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>M15</sup>Interpretation Act 1978 in its application to this section, the proper address of a person—

- (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

**F125** S. 105(1): words in definition of "adoption agency" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

**F126** S. 105(1): the definition of "appropriate children's home" 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. 3(2), Sch. 4; S.I. 2010/2891, art. 4(a)(i)

**F127** S. 105(1): definition of "appropriate children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(i); 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)

**F128** S. 105(1): definition of "care home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(ii); 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)

**F129** S. 105(1): definition of "child minder" repealed (1.4.2002 for W. and otherwise (prosp.) by 2000 c. 14, ss. 117(2), 122, Sch. 6; S.I. 2002/920, art. 3(3)(g) (with arts. 3(5)-(10))

**F130** S. 105(1): definition of "child of the family" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 75(3); S.I. 2005/3175, art. 2(1), Sch. 1

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- F131** S. 105(1): definition substituted (1.4.2011 for E., otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), ss. 8(2), 44, **Sch. 1 para. 3(3)**; S.I. 2010/2891, **art. 4(a)**
- F132** S. 105(1): definition of "contact activity condition" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**
- F133** S. 105(1): definition of "contact activity direction" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**
- F134** S. 105(1): words in the definition of "day care" repealed (W.) (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 72, 73, 75, Sch. 1 para. 7(a)(i), Sch. 2; S.I. 2010/2582, **art. 2**, Sch. 1 (subject to arts. 3, 4, 5) (as amended by S.I. 2011/577, art. 2)
- F135** 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)
- F136** 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**
- F137** S. 105(1): definition of "education functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(13)(a)**
- F138** S. 105(1): definition of "enforcement order" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), s. 15, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**
- F139** S. 105: definition of "health authority" omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(a)**
- F140** S. 105: words in definition of "health service hospital" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(b)**
- F141** S. 105(1): words in the definition of "hospital" repealed (W.) (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 72, 73, 75, Sch. 1 para. 7(a)(ii), Sch. 2; S.I. 2010/2582, **art. 2**, Sch. 1 (subject to arts. 3, 4, 5) (as amended by S.I. 2011/577, art. 2)
- F142** 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)**
- F143** S. 105(1): definition of "income-related employment and support allowance" inserted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(5)**; S.I. 2008/787, **art. 2(4)(f)**
- F144** S. 105(1): definition of "independent hospital" substituted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **art. 7(3)**
- F145** 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)
- F146** 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**
- F147** 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**
- F148** S. 105(1): definition substituted (1.4.2011 for E., otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), ss. 8(2), 44, **Sch. 1 para. 3(4)**; S.I. 2010/2891, **art. 4(a)**
- F149** S. 105(1): definition of "local education authority" repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1)(2), Sch. 2 para. 37(13)(b), **Sch. 3 Pt. 2**
- F150** S. 105: definition of "Local Health Board" inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(3)**
- F151** S. 105(1): definition of "mental nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **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)
- F152** S. 105(1): definition of "nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **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)

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- F153** 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)**
- F154** S. 105(1): words in definition of "parental responsibility agreement" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(c)** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F155** S. 105(1): word in the definition of "parental responsibility agreement" inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 31**; S.I. 2009/479, **art. 6(1)(e)**
- F156** S. 105(1): definition of "private children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(vii)**; 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**)
- F157** 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))
- F158** S. 105: words in definition of "Primary Care Trust" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(c)**
- F159** S. 105(1): definition of "protected child" repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(d)**, **Sch. 5** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F160** S. 105(1): definition of "registered children's home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **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(4)-(10) and transitional provisions in **Schs. 1-3**)
- F161** S. 105(1): words in definition of "relative" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 75(4); S.I. 2005/3175, **art. 2(1)**, **Sch. 1**
- F162** S. 105(1): definition of "residential care home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **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(4)-(10) and transitional provisions in **Schs. 1-3**)
- F163** 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**.
- F164** S. 105(1): definition of "section 31A plan" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(b)** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F165** 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)
- F166** S. 105(1): definition of "special guardian" and "special guardianship order" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(e)** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F167** 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**)
- F168** S. 105: words in definition of "Special Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(d)**
- F169** S. 105(1): definition of "Strategic Health Authority" inserted (1.10.2002) by S.I. 2002/2469, reg. 4, **Sch. 1 Pt. 1 para. 16(3)**
- F170** S. 105: words in definition of "Strategic Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(e)**
- F171** S. 105(1): definition of "Welsh family proceedings officer" inserted (1.4.2005) by Children Act 2004, (c. 31), s. 40, {**Sch. 3 para. 11**}; S.I. 2005/700, **art. 2(2)**
- F172** 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)**
- F173** S. 105(5A) repealed (W.) (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 72, 73, 75, **Sch. 1 para. 7(b)**, **Sch. 2**; S.I. 2010/2582, **art. 2**, **Sch. 1** (subject to arts. 3, 4, 5) (as amended by S.I. 2011/577, art. 2)
- F174** S. 105(5B) inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 15(2)(b)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)

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**F175** Words in s. 105(6)(b) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 36\(a\)](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1 and 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(v\)\(u\)\(xi\)](#)

**F176** S. 105(6)(ba) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 36\(b\)](#) (with [Sch. 27 paras. 1 and 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(v\)](#)

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

**C11** S. 105(4) applied (5.12.2003) (S.) by [1995 c. 36, s. 29\(7\)](#) (as added (5.12.2003) (S.) by [2001 asp 8](#), ss. [73\(1\)\(b\)](#), [81\(1\)](#)); [S.S.I. 2003/596](#), [art. 3\(2\)](#)

#### 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

**M7** [1971 c. 80](#).

**M8** [1983 c. 20](#).

**M9** [1968 c. 49](#).

**M10** [1985 c. 68](#).

**M11** [1984 c. 23](#).

**M12** [1980 c. 44](#).

**M13** [1987 c. 42](#).

**M14** [1970 c. 42](#).

**M15** [1978 c. 30](#).

## 106 Financial provisions.

(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.

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\(2\)](#)

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## **108 Short title, commencement etc.**

- (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 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—
  - [<sup>F177</sup>section 19;]
  - section 25(8);
  - section 50(13);
  - [<sup>F177</sup>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;

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- in Schedule 14, paragraphs 1, 33 and 34;  
in Schedule 15, the entries relating to—
- (a) the <sup>M16</sup>Custody of Children Act 1891;
  - (b) the <sup>M17</sup>Nurseries and Child Minders Regulation Act 1948;
  - (c) section 53(3) of the <sup>M18</sup>Children and Young Persons Act 1963;
  - (d) section 60 of the <sup>M19</sup>Health Services and Public Health Act 1968;
  - (e) the <sup>M20</sup>Social Work (Scotland) Act 1968;
  - (f) the <sup>M21</sup>Adoption (Scotland) Act 1978;
  - (g) the <sup>M22</sup>Child Care Act 1980;
  - (h) the <sup>M23</sup>Foster Children (Scotland) Act 1984;
    - (i) the <sup>M24</sup>Child Abduction and Custody Act 1985; and
  - (j) the <sup>M25</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>F178</sup> . . . , 28 to 30 and 38(a); and  
in Schedule 15, the entries relating to the <sup>M26</sup>Guardianship of Minors Act 1971,  
the <sup>M27</sup>Children Act 1975, the Child Care Act 1980, and the Family Law Act 1986.

#### Extent Information

- E3** 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

- F177** Words in s. 108(11) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)** (i) (subject to arts. 3-13)
- F178** 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

- M16** 1891 c. 3.  
**M17** 1948 c. 53.  
**M18** 1963 c. 37.  
**M19** 1968 c. 46.  
**M20** 1968 c. 49.  
**M21** 1978 c. 28.  
**M22** 1980 c. 5.  
**M23** 1984 c. 56.  
**M24** 1985 c. 60.  
**M25** 1986 c. 55.  
**M26** 1971 c. 3.  
**M27** 1975 c. 72

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