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Children Act 1989

1989 CHAPTER 41

PART XII

MISCELLANEOUS AND GENERAL

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

II 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.

- (1) Any power of the Lord Chancellor or the Secretary of State under this Act to make an order, regulations, or rules, except an order under section 54(2), 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4), 107 or 108(2), shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (3) An order under section 17(4) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument made under this Act may—
- (a) make different provision for different cases;
 - (b) provide for exemptions from any of its provisions; and
 - (c) contain such incidental, supplemental and transitional provisions as the person making it considers expedient.

Commencement Information

I2 S. 104 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

VALID FROM 13/11/2008

[^{F1}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

F1 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 section 1 of the ^{M1}Adoption Act 1976;

“bank holiday” means a day which is a bank holiday under the ^{M2}Banking and Financial Dealings Act 1971;

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“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);

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

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

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

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

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

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

“day care” has the same meaning as in section 18;

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

“district health authority” has the same meaning as in the ^{M3}National Health Service Act 1977;

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

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

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

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

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

“functions” includes powers and duties;

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

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

“health authority” means any district health authority and any special health authority established under the National Health Service Act 1977;

“health service hospital” has the same meaning as in the ^{M4}National Health Service Act 1977;

“hospital” has the same meaning as in the ^{M5}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);

“independent school” has the same meaning as in the ^{M6}Education Act 1944;

“local authority” means, in relation to England and Wales, the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London and, in relation to Scotland, a local authority within the meaning of section 1(2) of the ^{M7}Social Work (Scotland) Act 1968;

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

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“local education authority” has the same meaning as in the Education Act 1944;

“local housing authority” has the same meaning as in the ^{M8}Housing Act 1985;

“mental nursing home” has the same meaning as in the ^{M9}Registered Homes Act 1984;

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

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

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

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

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

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

“protected child” has the same meaning as in Part III of the ^{M10}Adoption Act 1976;

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

“registered pupil” has the same meaning as in the Education Act 1944;

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

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

“residential care home” has the same meaning as in the Registered Homes Act 1984 [^{F2} and “small home” has the meaning given by section 1(4A) of that Act];

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

“school” has the same meaning as in the Education Act 1944 or, in relation to Scotland, in the ^{M11}Education (Scotland) Act 1980;

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

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

“special educational needs” has the same meaning as in the ^{M12}Education Act 1981;

“special health authority” has the same meaning as in the ^{M13}National Health Service Act 1977;

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

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

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

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- (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 ^{M14}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 which stand referred to the social services committee of that or any other local authority under the ^{M15}Local Authority Social Services Act 1970.
- (6) In determining the “ordinary residence” of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—
 - (a) which is a school or other institution;
 - (b) in accordance with the requirements of a supervision order under this Act or an order under section 7(7)(b) of the ^{M16}Children and Young Persons Act 1969; 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 ^{M17}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

F2 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.

Commencement Information

I3 S. 105 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

- M1** 1976 c. 36.
- M2** 1971 c. 80.
- M3** 1977 c. 49.
- M4** 1977 c. 49.
- M5** 1983 c. 20.
- M6** 1944 c. 31.
- M7** 1968 c. 49.
- M8** 1985 c. 68.
- M9** 1984 c. 23.
- M10** 1976 c. 36.
- M11** 1980 c. 44.
- M12** 1981 c. 31.
- M13** 1977 c. 49.
- M14** 1987 c. 42.
- M15** 1970 c. 42.
- M16** 1969 c. 54.
- M17** 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

- I4** 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

- I5** S. 107 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

108 Short title, commencement extent etc.

- (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

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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—
 - section 19;
 - section 25(8);
 - section 50(13);
 - Part X;
 - section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);
 - section 88;
 - section 104 (so far as necessary);
 - section 105 (so far as necessary);
 - subsections (1) to (3), (8) and (9) and this subsection;
 - in Schedule 2, paragraph 24;
 - in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44;
 - in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71;
 - in Schedule 14, paragraphs 1, 33 and 34;
 - in Schedule 15, the entries relating to—
 - (a) the ^{M18}Custody of Children Act 1891;
 - (b) the ^{M19}Nurseries and Child Minders Regulation Act 1948;
 - (c) section 53(3) of the ^{M20}Children and Young Persons Act 1963;

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- (d) section 60 of the ^{M21}Health Services and Public Health Act 1968;
- (e) the ^{M22}Social Work (Scotland) Act 1968;
- (f) the ^{M23}Adoption (Scotland) Act 1978;
- (g) the ^{M24}Child Care Act 1980;
- (h) the ^{M25}Foster Children (Scotland) Act 1984;
- (i) the ^{M26}Child Abduction and Custody Act 1985; and
- (j) the ^{M27}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 ^{F3} . . . , 28 to 30 and 38(a); and
 - in Schedule 15, the entries relating to the ^{M28}Guardianship of Minors Act 1971, the ^{M29}Children Act 1975, the Child Care Act 1980, and the Family Law Act 1986.

Extent Information

- E1** [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

- F3** 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

- M18** 1891 c. 3.
M19 1948 c. 53.
M20 1963 c. 37.
M21 1968 c. 46.
M22 1968 c. 49.
M23 1978 c. 28.
M24 1980 c. 5.
M25 1984 c. 56.
M26 1985 c. 60.
M27 1986 c. 55.
M28 1971 c. 3.
M29 1975 c. 72

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