



Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37 1 Edw 8 and 1 Geo 6

PART II **S**

PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER

Offences

12 Cruelty to persons under sixteen. **S**

- (1) If any person who has attained the age of sixteen years and [^{F1}who has parental responsibilities in relation to a child or to a young person under that age or has charge or care of a child or such a young person,] wilfully ^{F2}... ill-treats, neglects, abandons, or exposes him, or causes or procures him to be ^{F2}... ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence, and shall be liable—
 - (a) on conviction on indictment, to a fine . . . ^{F3}, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding [^{F4}ten]years;
 - (b) on summary conviction, to a fine not exceeding [^{F5}£400], or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding six months.
- (2) For the purposes of this section—
 - (a) a parent or other person legally liable to maintain a child or young person [^{F6}or the legal guardian of a child or young person] shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under [^{F7}the enactments applicable in that behalf];

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- (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed, under the influence of drink, be deemed to have neglected the child in a manner likely to cause injury to his health.
- (3) A person may be convicted of an offence under this section—
 - (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;
 - (b) notwithstanding the death of the child or young person in question.
- (4) Where any person who has attained the age of sixteen years is tried on indictment for the culpable homicide of a child or young person under the age of sixteen years [^{F8}and he had parental responsibilities in relation to, or charge or care of, that child or young person], it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section, to find him guilty of that offence.
- (5) ^{F9}
- (6) ^{F9}
- ^{F10}(7)

Textual Amendments

F1 Words in s. 12(1) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(2)(a)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

F2 Words in s. 12(1) repealed (27.10.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 51(5)(a)**, 89(2); S.S.I. 2003/475, art. 2, sch.

F3 Words repealed by Children Act 1975 (c. 72), **Sch. 4 Pt. III**

F4 Word substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 45(1)(2)

F5 Words substituted by Children Act 1975 (c. 72), **Sch. 3 para. 2**

F6 Words in s. 12(2)(a) inserted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(2)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

F7 Words Substuted by S.I. 1951/174 (1951 I, p. 1369), Sch.

F8 Words in s. 12(4) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(2)(c)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

F9 S. 12(5)(6) repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), **Sch. 16**

F10 S. 12(7) repealed (27.10.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 51(5)(b)**, 89(2); S.S.I. 2003/475, art. 2, sch.

13, 14. ^{F11} **S**

Textual Amendments

F11 Ss. 13, 14 repealed by Sexual Offences (Scotland) Act 1976 (c. 67), s. 20, **Sch. 2**

Status: Point in time view as at 25/01/2018.

Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons (Scotland) Act 1937, Part II. (See end of Document for details)

15 Causing or allowing persons under sixteen to be used for begging. S

- (1) If any person causes or procures any child or young person under the age of sixteen years or, having [^{F12}parental responsibilities in relation to, or having], charge, or care of such a child or young person, allows him, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise) he shall, on summary conviction, be liable to a fine not exceeding [^{F13}level 2 on the standard scale], or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding three months.
- (2) If a person having t [^{F12}parental responsibilities in relation to, or having], charge, or care of a child or young person is charged with an offence under this section, and it is proved that the child or young person was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child or young person to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises, or place for that purpose unless the contrary is proved.
- (3) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

Textual Amendments

- F12** Words in s. 15(1)(2) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(3)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F13** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G**

^{F14}16 Giving exciseable liquor to children under five. S

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Textual Amendments

- F14** S. 16 repealed (1.9.2009 at 5.00 a.m. in so far as not already in force) by **Licensing (Scotland) Act 2005 (asp 16), s. 150(2), sch. 7** (with s. 143); S.S.I. 2007/472, art. 3

17 ^{F15} S

Textual Amendments

- F15** S. 17 repealed by **Licensing (Scotland) Act 1959 (c. 51), Sch. 12**

^{F16}18 Sale of tobacco, &c. to persons under sixteen. S

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Textual Amendments

F16 S. 18 repealed (3.3.2010) by [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), s. 43(2), [sch. 2 para. 1](#)

19 ^{F17} **S**

Textual Amendments

F17 S. 19 repealed by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), s. 192(1)(4), [Sch. 5](#)

20 ^{F18} **S**

Textual Amendments

F18 S. 20 repealed by [Civic Government \(Scotland\) Act 1982 \(c. 45, SIF 81:2\)](#), s. 137, [Sch. 4](#)

21 **Punishment of vagrants preventing children from receiving education.** **S**

(1) If a person habitually wanders from place to place and takes with him any child who has attained the age of five years, [^{F19} or any young person who has not attained the age at which under the enactments relating to education children cease to be of school age], he shall, unless he proves that the child [^{F20} or young person is not, by being so taken with him, prevented from receiving efficient education suitable to his age, ability and aptitude, be liable on conviction by a court of summary jurisdiction to a fine not exceeding [^{F21} level 1 on the standard scale].]

^{F22}(2)

(3) Without prejudice to the requirements of [^{F23} the ^{M1}Education (Scotland) Act 1962], as to school attendance or to proceedings thereunder, this section shall not, during the months of April to September inclusive, apply to any child whose parent or guardian is engaged in a trade or business of such a nature as to require him to travel from place to place, if a certificate has been obtained that the child has made not less than two hundred attendances at a public school during the months of October to March immediately preceding.

Textual Amendments

F19 Words inserted by [Education \(Scotland\) Act 1945 \(c. 37\)](#), [Sch. 4](#)

F20 Words substituted by [Education \(Scotland\) Act 1945 \(c. 37\)](#), [Sch. 4](#)

F21 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. **289F**, 289G

F22 S. 21(2) repealed (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential and Supplementary Modifications\) Regulations 2017 \(S.S.I. 2017/452\)](#), reg. 1, [sch. para. 4](#)

F23 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. **17(2)(a)**

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Modifications etc. (not altering text)

C1 S. 21 amended by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 168, 364**

Marginal Citations

M1 [1962 c. 47](#).

22 Exposing children under seven to risk of burning. **S**

If any person who has attained the age of sixteen years, [^{F24}and who has parental responsibilities in relation to a child under the age of seven years or charge or care of such a child], allows the child to be in any room containing an open fire grate not sufficiently protected to guard against the risk of his being burnt or scalded without taking reasonable precautions against that risk, and by reason thereof the child is killed or suffers serious injury, he shall on summary conviction be liable to a fine not exceeding [^{F25}level 1 on the standard scale]:

Provided that neither this section, nor any proceedings taken thereunder, shall affect any liability of any such person to be proceeded against by indictment for any indictable offence.

Textual Amendments

F24 Words in [s. 22](#) substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by [1995 c. 36, s. 105\(4\)](#), **Sch. 4 para. 7(4)** (with [s. 103\(1\)](#)); S.I. 1996/2203, art. 3(3), **Sch.**

F25 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

23 Failing to provide for safety of children at entertainments. **S**

- (1) Where there is provided in any building an entertainment for children, or an entertainment at which the majority of the persons attending are children, then, if the number of children attending the entertainment exceeds one hundred, it shall be the duty of the person providing the entertainment to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate, and to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and to take all other reasonable precautions for the safety of the children.
- (2) Where the occupier of a building permits, for hire or reward, the building to be used for the purpose of an entertainment, he shall take all reasonable steps to secure the observance of the provisions of this section.
- (3) If any person on whom any obligation is imposed by this section fails to fulfil that obligation, he shall be liable, on summary conviction, to a fine not exceeding, in the case of a first offence, fifty pounds, and in the case of a second or subsequent offence one hundred pounds, and also, if the building in which the entertainment is given is licensed . . . ^{F26}under any of the enactments relating to the licensing of theatres and of houses and other places for music or dancing, the licence shall be liable to be revoked by the authority by whom the licence was granted.

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(4) A constable may enter any building in which he has reason to believe that such an entertainment as aforesaid is being, or is about to be, provided, with a view to seeing whether the provisions of this section are carried into effect, and an officer authorised for the purpose by an authority by whom licences are granted under any of the enactments referred to in the last foregoing subsection shall have the like power of entering any building so licensed by that authority.

(5) ^{F27}

(6) This section shall not apply to any entertainment given in a private dwelling-house.

Textual Amendments

F26 Words repealed by [Cinemas Act 1985 \(c. 13, SIF 45A\)](#), s. 24(2), **Sch. 3**

F27 [S. 23\(5\)](#) repealed by [Children Act 1948 \(c. 43\)](#), s. 60, **Sch. 4 Pt. I**

24, 25. ^{F28} **S**

Textual Amendments

F28 [Ss. 24, 25, 39–45, 47–55, 57\(1\)\(2\), 58, 59\(2\)–\(4\), 63, 67, 103, Sch. 1](#) repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 460, **Sch. 10 Pt. I**

26 ^{F29} **S**

Textual Amendments

F29 [S. 26](#) repealed by [Criminal Procedure \(Scotland\) Act 1938 \(c. 48\)](#), **s. 11(2)**

Supplemental

27 Interpretation of Part II. **S**

For the purposes of this Part of this Act—

^{F30} . . .

Any person to whose charge a child or young person is committed by any person who has [^{F31}parental responsibilities in relation to] him shall be presumed to have charge of the child or young person;

Any other person having actual possession or control of a child or young person shall be presumed to have the care of him.

Textual Amendments

F30 First para. in s. 27 repealed (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by [1995 c. 36, s. 105\(4\)](#), [Sch. 4 para. 7\(5\)\(a\)](#), **Sch. 5** (with s. 103(1)); [S.I. 1996/2203, art. 3\(3\)](#), **Sch.**

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F31 Words in second para. in s. 27 substituted (1.11.1996 subject to arts. 4, 7 of the commencing S.I.) by 1995 c. 36, s. 105(4), **Sch. 4 para. 7(5)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

Status:

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Changes to legislation:

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