



# Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

## PART III

### PROTECTION OF CHILDREN AND YOUNG PERSONS IN RELATION TO CRIMINAL AND SUMMARY PROCEEDINGS

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

- C1** Pt. III amended by Local Authority Social Services Act 1970 (c. 42), s. 2(1), **Sch. 1** and (1.4.1981) by Child Care Act 1980 (c. 5), **ss. 78(1)(2)(b)**, 79(1)(4)(5)(b). (Child Care Act 1980 (c.5) repealed (14.10.1991) with saving by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 14 paras. 21, 27(4), **Sch. 15**; S.I. 1991/828, **art. 3(2)**)

#### *General Provisions as to Preliminary Proceedings*

### **31 Separation of children and young persons from adults in police stations, courts, &c.**

Arrangements shall be made for preventing a child or young person while detained in a police station, or while being conveyed to or from any criminal court, or while awaiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged, and for ensuring that a girl (being a child or young person) shall while so detained, being conveyed, or waiting, be under the care of a woman.

**32** ..... **F1**

*Status: Point in time view as at 25/08/2000.*

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**Textual Amendments**

**F1** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by Children and Young Persons Act 1969 (c. 54), s. 72, Sch. 6

**33** ..... **F2**

**Textual Amendments**

**F2** Ss. 33, 52 repealed by Criminal Justice Act 1948 (c. 58), Sch. 10 Pt. I

**[<sup>F3</sup>34 Attendance at court of parent of child or young person charged with an offence, &c.**

<sup>F4</sup>(1) .....

[ Where a child or young person is in police detention, such steps as are practicable

<sup>F5</sup>(2) shall be taken to ascertain the identity of a person responsible for his welfare.

(3) If it is practicable to ascertain the identity of a person responsible for the welfare of the child or young person, that person shall be informed, unless it is not practicable to do so—

- (a) that the child or young person has been arrested;
- (b) why he has been arrested; and
- (c) where he is being detained.

(4) Where information falls to be given under subsection (3) above, it shall be given as soon as it is practicable to do so.

(5) For the purposes of this section the persons who may be responsible for the welfare of a child or young person are—

- (a) his parent or guardian; or
- (b) any other person who has for the time being assumed responsibility for his welfare.

(6) If it is practicable to give a person responsible for the welfare of the child or young person the information required by subsection (3) above, that person shall be given it as soon as it is practicable to do so.

(7) If it appears that at the time of his arrest a supervision order, as defined in [<sup>F6</sup>section 163 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F7</sup>or Part IV of the Children Act 1989], is in force in respect of him, the person responsible for his supervision shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.

<sup>F8</sup>(7A) [ If it appears that at the time of his arrest the child or young person is being provided with accommodation by or on behalf of a local authority under section 20 of the Children Act 1989, the local authority shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.]



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- C8** S. 34(2)-(7) applied (4.11.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 5\(2\)\(b\)](#); commencement date as notified in London, Edinburgh and Belfast Gazettes
- C9** S. 34(2)-(7) applied (4.11.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 5\(2\)\(b\)](#); commencement date as notified in London, Edinburgh and Belfast Gazettes
- C10** S. 34(8)(9) applied (4.11.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 5\(2\)\(b\)](#); commencement date as notified in London, Edinburgh and Belfast Gazettes
- C11** S. 34(8)(9) applied (4.11.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\)](#), [art. 5\(2\)\(b\)](#); commencement date as notified in London, Edinburgh and Belfast Gazettes

**[34A] <sup>F11</sup> Attendance at court of parent or guardian.**

- (1) Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—
  - (a) may in any case; and
  - (b) shall in the case of a child or a young person who is under the age of sixteen years,

require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case.

- (2) In relation to a child or young person for whom a local authority have parental responsibility and who—
  - (a) is in their care; or
  - (b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which stand referred to their social services committee under the Local Authority Social Services Act 1970,
 the reference in subsection (1) above to a person who is a parent or guardian of his shall be construed as a reference to that authority or, where he is allowed to live with such a person, as including such a reference.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.]

**Textual Amendments**

**F11** S. 34A inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss.56, 101(2), [Sch. 12 para. 14](#); S.I. 1992/333, art. 2(2), [Sch. 2](#)

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#### Textual Amendments

- F12** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by Children and Young Persons Act 1969 (c. 54), s. 72, Sch. 6

### General Provisions as to Proceedings in Court

#### 36 Prohibition against children being present in court during the trial of other persons.

No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purposes of justice [<sup>F13</sup>or while the court consents to his presence]; and any child present in court when under this section he is not to be permitted to be so shall be ordered to be removed:

<sup>F14</sup> . . .

#### Textual Amendments

- F13** Words in s. 36 inserted (27.9.1999) by 1999 c. 22, ss. 73(1), 108(3)(b) (with Sch. 14 para. 7(2))  
**F14** Proviso to s. 36 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), Sch. 15 Pt. III (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(iii)

#### 37 Power to clear court while child or young person is giving evidence in certain cases.

- (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness:

Provided that nothing in this section shall authorise the exclusion of bonâ fide representatives of a newspaper or news agency.

- (2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camerâ.

#### 38 Evidence of child of tender years.

<sup>F15</sup>(1) . . . . .

- (2) If any child whose evidence is received [<sup>F16</sup>unsworn in any proceedings for an offence by virtue of section 52 of the Criminal Justice Act 1991]wilfully gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he shall be liable on summary conviction to be dealt with as if

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he had been summarily convicted of an indictable offence punishable in the case of an adult with imprisonment.

**Textual Amendments**

- F15** S. 38(1) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 52(2), 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F16** Words in s. 38(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, **Sch. 11 para.1**; S.I. 1992/333, art. 2(2), **Sch. 2**

**39 Power to prohibit publication of certain matter in newspapers.**

- (1) In relation to any proceedings in any court . . . <sup>F17</sup>, the court may direct that—
  - (a) no newspaper report of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person [<sup>F18</sup>by or against] or in respect of whom the proceedings are taken, or as being a witness therein:
  - (b) no picture shall be published in any newspaper as being or including a picture of any child or young person so concerned in the proceedings as aforesaid; except in so far (if at all) as may be permitted by the direction of the court.
- (2) Any person who publishes any matter in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding [<sup>F19</sup>level 5 on the standard scale].

**Textual Amendments**

- F17** Words repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**
- F18** Words substituted by Children and Young Persons Act 1963 (c. 37), s. 57(1)
- F19** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46

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

- C12** S. 39 extended by Children and Young Persons Act 1963 (c. 37), s. 57(3)(4) (as amended (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), ss. 79(10), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with **Sch. 2 para. 5**))
- C13** S. 39 extended with modifications by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 4(3)**

*Special Procedure with regard to Offences specified in First Schedule*

<sup>F20</sup>**40** .....

**Textual Amendments**

- F20** S. 40 repealed (E.W.) (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), s. 108(4)(6)(7), Sch. 12 para. 3, **Sch.15** (with Sch. 14 para. 27(4)); S.I. 1991/828, art. 3(2).

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#### **41 Power to proceed with case in absence of child or young person.**

Where in any proceedings with relation to any of the offences mentioned in the First Schedule to this Act, the court is satisfied that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child or young person.

#### **42 Extension of power to take deposition of child or young person.**

- (1) Where a justice of the peace is satisfied by the evidence of a duly qualified medical practitioner that the attendance before a court of any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Act is alleged to have been committed would involve serious danger to his life or health, the justice may take in writing the deposition of the child or young person on oath, and shall thereupon subscribe the deposition and add thereto a statement of his reason for taking it and of the day when and place where it was taken, and of the names of the persons (if any) present at the taking thereof.
- (2) The justice taking any such deposition shall transmit it with his statement—
  - (a) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for the trial at which the accused person has been committed; and
  - (b) in any other case, to the clerk of the court before which proceedings are pending in respect of the offence.

#### **43 Admission of deposition of child or young person in evidence.**

Where, in any proceedings in respect of any of the offences mentioned in the First Schedule of this Act, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed would involve serious danger to his life or health, any deposition of the child or young person taken under the <sup>M1</sup>Indictable Offences Act 1848, or this Part of this Act, shall be admissible in evidence either for or against the accused person without further proof thereof if it purports to be signed by the justice by or before whom it purports to be taken:

Provided that the deposition shall not be admissible in evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his counsel or solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the child or young person making the deposition.

#### **Marginal Citations**

**M1** 1848 c. 42.

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*Principles to be observed by all Courts in dealing with Children and Young Persons*

**44 General considerations.**

(1) Every court in dealing with a child or young person who is brought before it, either as . . . <sup>F21</sup> an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.

(2) . . . . . <sup>F22</sup>

**Textual Amendments**  
**F21** Words repealed by Children and Young Persons Act 1969 (c. 54), Sch. 6  
**F22** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by Children and Young Persons Act 1969 (c. 54), s. 72, Sch. 6

*Youth Courts*

**45 Constitution of [<sup>F23</sup>youth courts].**

Courts of summary jurisdiction constituted in accordance with the provisions of the Second Schedule of this Act and sitting for the purpose of hearing any charge against a child or young person or for the purpose of exercising any other jurisdiction conferred on [<sup>F23</sup>youth courts] by or under this or any other Act, shall be known as [<sup>F23</sup>youth courts] and in whatever place sitting shall be deemed to be petty sessional courts.

**Textual Amendments**  
**F23** Words in s. 45 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, Sch. 11 para. 40(2)(a); S.I. 1992/333, art. 2(2), Sch. 2

**46 Assignment of certain matters to [<sup>F24</sup>youth courts].**

(1) Subject as hereinafter provided, no charge against a child or young person, and no application whereof the hearing is by rules made under this section assigned to [<sup>F24</sup>youth courts], shall be heard by a court of summary jurisdiction which is not a [<sup>F24</sup>youth court]:

Provided that—

- (a) a charge made jointly against a child or young person and a person who has attained [<sup>F25</sup>the age of eighteen] years shall be heard by a court of summary jurisdiction other than a [<sup>F24</sup>youth court]; and
- (b) where a child or young person is charged with an offence, the charge may be heard by a court of summary jurisdiction which is not a [<sup>F24</sup>youth court] if a person who has attained [<sup>F25</sup>the age of eighteen] years is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence; and



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- (c) where, in the course of any proceedings before any court of summary jurisdiction other than a [F24youth court], it appears that the person to whom the proceedings relate is a child or young person, nothing in this subsection shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.

[F26(1A) If a notification that the accused desires to plead guilty without appearing before the court is received by the clerk of a court in pursuance of [F27section 12 of the M2Magistrates' Courts Act 1980] and the court has no reason to believe that the accused is a child or young person, then, if he is a child or young person he shall be deemed to have attained [F25 the age of eighteen] for the purposes of subsection (1) of this section in its application to the proceedings in question.]

- (2) No direction, whether contained in this or any other Act, that a charge shall be brought before a [F24youth court] shall be construed as restricting the powers of any justice or justices to entertain an application for bail or for a remand, and to hear such evidence as may be necessary for that purpose.

- (3) ..... F28

**Textual Amendments**

- F24 Words in s. 46 substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 100, [Sch. 11 para. 40\(2\)\(a\)](#); [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).
- F25 Words in s. 46(1)(1A) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), [Sch. 8 para. 1\(2\)](#), [Sch. 12 para. 22\(1\)](#); [S.I. 1992/333](#), art. 2(2), [Sch.2](#).
- F26 S. 46(1A) inserted by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 5 para. 4](#)
- F27 Words substituted by [Magistrates' Courts Act 1980 \(c. 43\)](#), ss. 154(2), 155(7), [Sch. 7 para 6](#)
- F28 S. 46(3) repealed by [Justices of the Peace Act 1949 \(c. 101\)](#), [Sch. 7](#), Pt. II

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

- C14 S. 46(1) excluded by [Children and Young Persons Act 1963 \(c. 37\)](#), [s. 18](#), [Criminal Law Act 1977 \(c. 45\)](#), [s. 34\(1\)](#) and [Magistrates' Courts Act 1980 \(c. 43\)](#), [ss. 29\(1\)](#), 155(7)

**Marginal Citations**

- M2 1980 c. 43.

**47 Procedure in [F29youth courts].**

- (1) [F29Youth courts] shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on them by or under this or any other Act.

- (2) F30 . . . No person shall be present at any sitting of a [F29youth court] except—
  - (a) members and officers of the court;
  - (b) parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case;
  - (c) bonâ fide representatives of newspapers or news agencies;
  - (d) such other persons as the court may specially authorise to be present:

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- (3) ..... F32

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**Textual Amendments**

- F29** Words in s. 47 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F30** Words in s. 47(2) repealed (30.9.1998) by 1998 c. 37, ss. 47(7), 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(k)(3)(g)**.
- F31** S. 47(2) proviso repealed by Justices of Peace Act 1949 (c. 101), **Sch. 7 Pt. III**
- F32** S. 47(3) repealed by Justices of the Peace Act 1949 (c. 101), **Sch. 7**, Pt. II

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

- C15** S. 47(2) restricted by Adoption Act 1958 (7 & 8 Eliz. 2 c. 5), **s. 47**; restricted by Adoption Act 1976 (c. 36), **s. 37(4)**

**48 Miscellaneous provisions as to powers of [F33 youth courts].**

- (1) A [F33 youth court] sitting for the purpose of hearing a charge against, . . . F34, a person who is believed to be a child or young person may, if it thinks fit to do so, proceed with the hearing and determination of the charge . . . F34 notwithstanding that it is discovered that the person in question is not a child or young person.
- F35(2) The attainment of [F36 the age of eighteen] years by . . . F37 a person in whose case an order for conditional discharge has been made, shall not deprive a [F33 youth court] of jurisdiction to enforce his attendance and deal with him in respect of . . . F37 the commission of a further offence . . . F37.
- (3) When a [F33 youth court] has remanded a child or young person for information to be obtained with respect to him, any [F33 youth court] acting for the same [F38 petty sessions area] or place—
  - (a) may in his absence extend the period for which he is remanded, so, however, that he appears before a court or a justice of the peace at least once in every twenty-one days;
  - (b) when the required information has been obtained, may deal with him finally;

F39
- (4) . . . . . F40 a [F33 youth court] may sit on any day for the purpose of hearing and determining a charge against a child or young person in respect of an indictable offence.
- F41(5) . . . . .
- (6) . . . . . F42

**Textual Amendments**

- F33** Words in s. 48 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F34** Words repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**
- F35** S. 48(2) substituted by Criminal Justice Act 1948 (c. 58), **Sch. 9**
- F36** Words in s. 48(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 1(2), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F37** Words repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**

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- F38** Words in s. 48(3) substituted (27.9.1999) by 1999 c. 22, ss. 76(2), 108(3)(c), Sch. 10 paras. 14, 15 (with Sch. 14 para. 7(2))
- F39** Words repealed by Criminal Justice Act 1948 (c. 58), **Sch. 10 Pt. I**
- F40** Words repealed by Magistrates' Courts Act 1952 (c. 55), s. 132, **Sch. 6**
- F41** S. 48(5) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**
- F42** S. 48(6) repealed by Justices of the Peace Act 1949 (c. 101), **Sch. 7, Pt. III**

**[<sup>F43</sup>49] Restrictions on reports of proceedings in which children or young persons are concerned.**

- (1) The following prohibitions apply (subject to subsection (5) below) in relation to any proceedings to which this section applies, that is to say—
- (a) no report shall be published which reveals the name, address or school of any child or young person concerned in the proceedings or includes any particulars likely to lead to the identification of any child or young person concerned in the proceedings; and
  - (b) no picture shall be published or included in a programme service as being or including a picture of any child or young person concerned in the proceedings.
- (2) The proceedings to which this section applies are—
- (a) proceedings in a youth court;
  - (b) proceedings on appeal from a youth court (including proceedings by way of case stated);
  - (c) proceedings under [<sup>F44</sup>Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000] (proceedings for varying or revoking supervision orders); and
  - (d) proceedings on appeal from a magistrates' court arising out of proceedings under [<sup>F45</sup>Schedule 7 to that Act](including proceedings by way of case stated).
- (3) The reports to which this section applies are reports in a newspaper and reports included in a programme service; and similarly as respects pictures.
- (4) For the purposes of this section a child or young person is “concerned” in any proceedings whether as being the person against or in respect of whom the proceedings are taken or as being a witness in the proceedings.

[ If a court is satisfied that it is in the public interest to do so, it may, in relation to a <sup>F46</sup>(4A) child or young person who has been convicted of an offence, by order dispense to any specified extent with the requirements of this section in relation to any proceedings before it to which this section applies by virtue of subsection (2)(a) or (b) above, being proceedings relating to—

- (a) the prosecution or conviction of the offender for the offence;
- (b) the manner in which he, or his parent or guardian, should be dealt with in respect of the offence;
- (c) the enforcement, amendment, variation, revocation or discharge of any order made in respect of the offence;
- (d) where an attendance centre order is made in respect of the offence, the enforcement of any rules made under [<sup>F47</sup>section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000]; or

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- [ where a detention and training order is made, the enforcement of any requirements imposed under <sup>F48</sup>(e) <sup>F49</sup>section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000].]
- (4B) A court shall not exercise its power under subsection (4A) above without—
- (a) affording the parties to the proceedings an opportunity to make representations; and
  - (b) taking into account any representations which are duly made.]
- (5) Subject to subsection (7) below, a court may, in relation to proceedings before it to which this section applies, by order dispense to any specified extent with the requirements of this section in relation to a child or young person who is concerned in the proceedings if it is satisfied—
- (a) that it is appropriate to do so for the purpose of avoiding injustice to the child or young person; or
  - (b) that, as respects a child or young person to whom this paragraph applies who is unlawfully at large, it is necessary to dispense with those requirements for the purpose of apprehending him and bringing him before a court or returning him to the place in which he was in custody.
- (6) Paragraph (b) of subsection (5) above applies to any child or young person who is charged with or has been convicted of—
- (a) a violent offence,
  - (b) a sexual offence, or
  - (c) an offence punishable in the case of a person aged 21 or over with imprisonment for fourteen years or more.
- (7) The court shall not exercise its power under subsection (5)(b) above—
- (a) except in pursuance of an application by or on behalf of the Director of Public Prosecutions; and
  - (b) unless notice of the application has been given by the Director of Public Prosecutions to any legal representative of the child or young person.
- (8) The court's power under subsection (5) above may be exercised by a single justice.
- (9) If a report or picture is published or included in a programme service in contravention of subsection (1) above, the following persons, that is to say—
- (a) in the case of publication of a written report or a picture as part of a newspaper, any proprietor, editor or publisher of the newspaper;
  - (b) in the case of the inclusion of a report or picture in a programme service, any body corporate which provides the service and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) In any proceedings under <sup>F50</sup>Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000] (proceedings for varying or revoking supervision orders) before a magistrates' court other than a youth court or on appeal from such a court it shall be the duty of the magistrates' court or the appellate court to announce in the course of the proceedings that this section applies to the proceedings; and if the court fails to do so this section shall not apply to the proceedings.
- (11) In this section—

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“legal representative” means an authorised advocate or authorised litigator, as defined by section 119(1) of the <sup>M3</sup>Courts and Legal Services Act 1990;

“programme” and “programme service” have the same meaning as in the <sup>M4</sup>Broadcasting Act 1990;

“sexual offence” has the same meaning as in [<sup>F51</sup>the Powers of Criminal Courts (Sentencing) Act 2000];

“specified” means specified in an order under this section;

“violent offence” has the same meaning as in [<sup>F51</sup>the Powers of Criminal Courts (Sentencing) Act 2000];

and a person who, having been granted bail, is liable to arrest (whether with or without a warrant) shall be treated as unlawfully at large.]

#### Extent Information

**E1** For extent and application see s. 49(12)-(14)

#### Textual Amendments

**F43** S. 49 substituted (3.2.1995) by 1994 c. 33, s. 49; S.I. 1995/127, art. 2(1), **Sch. 1**

**F44** Words in s. 49(2)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 2(2)(a)**

**F45** Words in s. 49(2)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 2(2)(b)**

**F46** S. 49(4A)(4B) inserted (1.10.1997) by 1997 c. 43, s. 45(1)(2); S.I. 1997/2200, art. 2(1)(i)

**F47** Words in s. 49(4A)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 2(3)(a)**

**F48** S. 49(4A)(e) substituted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 1**; S.I. 1999/3426, art. 3(b) (with art. 4)

**F49** Words in s. 49(4A)(e) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 2(3)(b)**

**F50** Words in s. 49(10) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 2(4)**

**F51** S. 49(11): Words in the definitions of “sexual offence” and “violent offence” substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 2(5)**

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

**C16** S. 49 excluded (20.1.2004 for certain purposes and otherwise 31.3.2004) by 1998 c. 37, s. 1C(9C) (as inserted by Anti-Social Behaviour Act 2003 (c. 38), ss. 86(3), 93); S.I. 2003/3300, art. 2(f)(ii); S.I. 2004/690, art. 2(b)(iii)

#### Marginal Citations

**M3** 1990 c. 41.

**M4** 1990 c. 42.

### *Juvenile Offenders*

#### **50** Age of criminal responsibility.

It shall be conclusively presumed that no child under the age of [<sup>F52</sup>ten] years can be guilty of any offence.

#### Textual Amendments

**F52** Word substituted by Children and Young Persons Act 1963 (c. 37), s. 16(1)

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51 ..... F53

**Textual Amendments**

**F53** Ss. 1(4), 51 repealed by [Criminal Law Act 1967 \(c. 58\)](#), s. 12, [Sch. 3 Pt. III](#)

52 ..... F54

**Textual Amendments**

**F54** Ss. 33, 52 repealed by [Criminal Justice Act 1948 \(c. 58\)](#), [Sch. 10 Pt. I](#)

<sup>F55</sup>53 .....

**Textual Amendments**

**F55** S. 53 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

54 ..... F56

**Textual Amendments**

**F56** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), [Sch. 4 paras. 4–13](#) repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72, [Sch. 6](#)

<sup>F57</sup>55 .....

**Textual Amendments**

**F57** S. 55 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#)) and subject to an amendment (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 107(1), 108(4), [Sch. 5 para. 2](#); S.I. 2000/2849, [art. 2\(f\)\(h\)](#)

<sup>F58</sup>56 .....

**Textual Amendments**

**F58** S. 56 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

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57 ..... F59

**Textual Amendments**

**F59** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by Children and Young Persons Act 1969 (c. 54), s. 72, Sch. 6

**58 Power of Secretary of State to send certain juvenile offenders to approved schools.**

The Secretary of State may by order direct that—

- (a) a person who is under the age of eighteen years and is undergoing detention in a Borstal institution; or
- (b) a child or young person [<sup>F60</sup>sentenced to be detained under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 with respect to whom he is authorised to give directions under section 92 of that Act]; or
- (c) a young person who has been ordered to be imprisoned and has been pardoned by His Majesty on condition of his agreeing to undergo training in a school,

shall be transferred or sent to and detained in an approved school specified in the order; and any such order shall be an authority [<sup>F61</sup>for his detention in that approved school or in such other approved school as the Secretary of State may from time to time determine] until such date as may be specified in the order:

Provided that the date to be so specified shall be not later than that on which he will in the opinion of the Secretary of State attain the age of nineteen years nor later—

- (a) in the case of a person who was . . . [<sup>F62</sup>sentenced to detention under the said [<sup>F63</sup>section 91], than the date on which his detention would have expired;
- (b) in the case of a young person who has been sentenced to imprisonment and pardoned as aforesaid, than three years from the date as from which his sentence began to run;
- [<sup>F64</sup>(c) in the case of a person who was undergoing detention in a Borstal institution, than the end of the period for which he would have been liable to be detained therein.]

**Textual Amendments**

**F60** Words in s. 58(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 3(2)  
**F61** Words substituted by Children and Young Persons Act 1963 (c. 37), Sch. 3 para. 13  
**F62** Words in s. 58 proviso (a) repealed by Criminal Justice Act 1948 (c. 58), Sch. 10 Pt. I  
**F63** Words in s. 58 proviso (a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 3(3)  
**F64** S. 58 proviso (c) added by Criminal Justice Act 1948 (c. 58), Sch. 9

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

**C17** S. 58 extended by Children and Young Persons Act 1963 (c. 37), s. 11(2)(4)

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**59 Miscellaneous provisions as to summary proceedings against juvenile offenders.**

(1) The words “conviction” and “sentence” shall cease to be used in relation to [<sup>F65</sup>children and] young persons dealt with summarily and any reference in any enactment [<sup>F66</sup>whether passed before or after the commencement of this Act] to a person convicted, a conviction or a sentence shall, in the case of a [<sup>F65</sup>child or] young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be:

..... F67

(2) ..... F68

**Textual Amendments**

- F65 Words repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), **Sch. 6**
- F66 Words inserted by [Criminal Justice Act 1948 \(c. 58\)](#), **Sch. 9**
- F67 [S. 59\(1\)](#) proviso repealed by [Criminal Justice Act 1948 \(c. 58\)](#), **Sch. 10 Pt. I**
- F68 [S. 59\(2\)](#) repealed by Costs in [Criminal Cases Act 1952 \(c. 48\)](#), **Sch.**

**60** ..... F69

**Textual Amendments**

- F69 [S. 60](#) and [Sch. 3](#) repealed by [Magistrates' Courts Act 1952 \(c. 55\)](#), s. 132, **Sch. 6**

**61** ..... F70

**Textual Amendments**

- F70 [Ss. 14\(3\), 22, 24\(3\)\(5\), 29\(1\)\(2\), 61](#) repealed by [Children and Young Persons Act 1963 \(c. 37\)](#), s. 64, **Sch. 5**

**62—76** ..... F71

**Textual Amendments**

- F71 [Ss. 26\(6\), 29\(3\), 32, 35, 44\(2\), 54, 55\(2\), 57, 62–76, 77\(1\)\(3\), 78, 79\(4\), 81\(2\), 82–85, 90, 91, 94, 107\(2\), 108\(2\)\(3\), Sch. 4 paras. 4–13](#) repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72, **Sch. 6**



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