

**Changes to legislation:** Children Act 1989, Cross Heading: Exemptions is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 8

#### PRIVATELY FOSTERED CHILDREN

##### *Exemptions*

- 1 A child is not a privately fostered child while he is being looked after by a local authority.

##### Commencement Information

**II** Sch. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 2 (1) A child is not a privately fostered child while he is in the care of any person—
- (a) in premises in which any—
    - (i) parent of his;
    - (ii) person who is not a parent of his but who has parental responsibility for him; or
    - (iii) person who is a relative of his and who has assumed responsibility for his care,is for the time being living;
  - <sup>F1</sup>(b) . . . . .
  - (c) in accommodation provided by or on behalf of any voluntary organisation;
  - (d) in any school in which he is receiving full-time education;
  - (e) in any health service hospital;
  - <sup>F2</sup>(f) in any care home or independent hospital]
  - (g) in any home or institution not specified in this paragraph but provided, equipped and maintained by the Secretary of State.
- (2) Sub-paragraph [<sup>F3</sup>(1)(c)] to (g) does not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the paragraph in question.

##### Textual Amendments

- F1** Sch. 8 para. 2(1)(b) repealed (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(27)(a), Sch. 6; S.I. 2001/4150, art. 3(3)(a)(c)(viii) (subject to transitional provision in art. 4 of the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)(d)(g) (with art 3(4)-(10) and transitional provisions in Schs. 1-3)
- F2** Sch. 8 para. 2(1)(f) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(28); 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)

*Changes to legislation: Children Act 1989, Cross Heading: Exemptions is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**F3** Words in Sch. 8 para. 2(2) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)(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)

#### Commencement Information

**I2** Sch. 8 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 3 A child is not a privately fostered child while he is in the care of any person in compliance with—
- [<sup>F4</sup>(a) a youth rehabilitation order made under [<sup>F5</sup>Chapter 1 of Part 9 of the Sentencing Code];]
  - [<sup>F6</sup>(b) a compulsory supervision order or interim compulsory supervision order as defined by sections 83 and 86 of the Children’s Hearings (Scotland) Act 2011.]

#### Textual Amendments

- F4** Sch. 8 para. 3(a) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 38** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**
- F5** Words in Sch. 8 para. 3(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 115** (with Sch. 27); S.I. 2020/1236, reg. 2
- F6** Sch. 8 para. 3(b) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 2(4)**

#### Commencement Information

**I3** Sch. 8 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 4 A child is not a privately fostered child while he is liable to be detained, or subject to guardianship, under the <sup>M1</sup>Mental Health Act 1983.

#### Commencement Information

**I4** Sch. 8 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

**M1** 1983 c. 20.

- 5 A child is not a privately fostered child while [<sup>F7</sup>he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—
- (a) section 2 of the Adoption and Children Act 2002;
  - [<sup>F8</sup>(b) section 119 of the Adoption and Children (Scotland) Act 2007; or]
  - (c) Article 3 of the Adoption (Northern Ireland) Order 1987]
- [<sup>F9</sup>or while he is a child in respect of whom a local authority have functions by virtue of regulations under section 83(6)(b) of the Adoption and Children Act 2002 (which relates to children brought into the United Kingdom for adoption), or corresponding functions by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act 1999 (regulations to give effect to Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption).]

---

**Changes to legislation:** Children Act 1989, Cross Heading: Exemptions is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

---

#### Textual Amendments

- F7** Sch. 8 para. 5(a)-(c) and preceding words substituted (30.12.2005) for Sch. 8 para. 5(a)(b) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 73 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F8** Sch. 8 para. 5(b) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 3(3)**
- F9** Words in Sch. 8 para. 5 inserted (2.8.2007) by Children and Adoption Act 2006 (c. 20), **ss. 14(3), 17**; S.I. 2007/2287, **art. 2(1)(c)**
- 

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

- C1** Sch. 8 para. 5 modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 5, **Sch. 4** (with Sch. 1)
- C2** Sch. 8 para. 5 modified (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), reg. 1(2), **Sch. 4 para. 15**
- 

#### Commencement Information

- I5** Sch. 8 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**Changes to legislation:**

Children Act 1989, Cross Heading: Exemptions is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 8(4)(k) inserted by 2021 c. 17 s. 52(1)
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)