



# Children and Young Persons Act 1963

## 1963 CHAPTER 37

### PART II

#### EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

##### *Entertainment*

#### **37      Restriction on persons under 16 taking part in public performances, etc.**

(1) Subject to the provisions of this section, a child shall not take part in a performance to which this section applies except under the authority of a licence granted by the local authority in whose area he resides or, if he does not reside in Great Britain, by the local authority in whose area the applicant or one of the applicants for the licence resides or has his place of business.

(2) This section applies to—

- (a) any performance in connection with which a charge is made (whether for admission or otherwise);
- (b) any performance in licensed premises within the meaning of the Licensing Act 1953 or the Licensing (Scotland) Act 1959 or in premises in respect of which a club is registered under the said Act of 1959 or the Licensing Act 1961 ;
- (c) any broadcast performance ;
- (d) any performance recorded (by whatever means) with a view to its use in a broadcast or in a film intended for public exhibition;

and a child shall be treated for the purposes of this section as taking part in a performance if he takes the place of a performer in any rehearsal or in any preparation for the recording of the performance.

(3) A licence under this section shall not be required for any child to take part in a performance to which this section applies if—

- (a) in the six months preceding the performance he has not taken part in other performances to which this section applies on more than three days; or

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*Status: This is the original version (as it was originally enacted).*

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- (b) the performance is given under arrangements made by a school (within the meaning of the Education Act 1944 or the Education (Scotland) Act 1962) or made by a body of persons approved for the purposes of this section by the Secretary of State or by the local authority in whose area the performance takes place, and no payment in respect of the child's taking part in the performance is made, whether to him or to any other person, except for defraying expenses;

but the Secretary of State may by regulations made by statutory instrument prescribe conditions to be observed with respect to the hours of work, rest or meals of children taking part in performances as mentioned in paragraph (a) of this subsection.

- (4) The power to grant licences under this section shall be exercisable subject to such restrictions and conditions as the Secretary of State may by regulations made by statutory instrument prescribe and a local authority shall not grant a licence for a child to take part in a performance or series of performances unless they are satisfied that he is fit to do so, that proper provision has been made to secure his health and kind treatment and that, having regard to such provision (if any) as has been or will be made therefor, his education will not suffer; but if they are so satisfied, in the case of an application duly made for a licence under this section which 'they have power to grant, they shall not refuse to grant the licence.
- (5) Regulations under this section may make different provision for different circumstances and may prescribe, among the conditions subject to which a licence is to be granted, conditions requiring the approval of a local authority and may provide for that approval to be given subject to conditions imposed by the authority.
- (6) Without prejudice to the generality of the preceding subsection, regulations under this section may prescribe, among the conditions subject to which a licence may be granted, a condition requiring sums earned by the child in respect of whom the licence is granted in taking part in a performance to which the licence relates to be paid into the county court (or, in Scotland, consigned in the sheriff court) or dealt with in a manner approved by the local authority.
- (7) A licence under, this section shall specify the times, if any, during which the child in respect of whom it is granted may be absent from school for the purposes authorised by the licence; and for the purposes of the enactments relating to education a child who is so absent during any times so specified shall be deemed to be absent with leave granted by a person authorised in that behalf by the managers, governors or proprietor of the school or, in Scotland, with reasonable excuse.
- (8) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **38      Restriction on licences for performances by children under 13**

- (1) A licence under the preceding section in respect of a child under the age of thirteen shall not be granted unless—
  - (a) the licence is for acting and the application therefor is accompanied by a declaration that the part he is to act cannot be taken except by a child of about his age; or
  - (b) the licence is for dancing in a ballet which does not form part of an entertainment of which anything other than ballet or opera also forms part and the application for the licence is accompanied by a declaration that the part he is to dance cannot be taken except by a child of about his age ; or

- (c) the nature of his part in the performance is wholly or mainly musical and either the nature of the performance is also wholly or mainly musical or the performance consists only of opera and ballet.
- (2) On the extension of the compulsory school age (or, in Scotland, school age) to sixteen years, that is to say—
  - (a) in England and Wales, on the coming into force of an Order in Council under section 35 of the Education Act 1944; and
  - (b) in Scotland, on the coming into force of regulations under section 32 of the Education (Scotland) Act 1962 ;subsection (1) of this section shall have effect as if for the word " thirteen " there were substituted the word " fourteen ".

### **39 Supplementary provisions as to licences under section 37**

- (1) A licence under section 37 of this Act may be varied on the application of the person holding it by the local authority by whom it was granted or by any local authority in whose area the performance or one of the performances to which it relates takes place.
- (2) The local authority by whom such a licence was granted, and any local authority in whose area the performance or one of the performances to which it relates takes place, may vary or revoke the licence if any condition subject to which it was granted is not observed or they are not satisfied as to the matters mentioned in subsection (4) of the said section 37, but shall, before doing so, give to the holder of the licence such notice (if any) of their intention as may be practicable in the circumstances.
- (3) Where a local authority grant such a licence authorising a child to take part in a performance in the area of another local authority they shall send to that other authority such particulars as the Secretary of State may by regulations made by statutory instrument prescribe; and where a local authority vary or revoke such a licence which was granted by, or relates to a performance in the area of, another local authority, they shall inform that other authority.
- (4) A local authority proposing to vary or revoke such a licence granted by another local authority shall, if practicable, consult that other authority.
- (5) The holder of such a licence shall keep such records as the Secretary of State may by regulations made by statutory instrument prescribe and shall on request produce them to an officer of the authority who granted the licence, at any time not later than six months after the performance or last performance to which it relates.
- (6) Where a local authority refuse an application for a licence under section 37 of this Act or revoke or, otherwise than on the application of the holder, vary such a licence they shall state their grounds for doing so in writing to the applicant or, as the case may be, the holder of the licence; and the applicant or holder may appeal to a magistrates' court or, in Scotland, the sheriff, against the refusal, revocation or variation, and against any condition subject to which the licence is granted or any approval is given, not being a condition which the local authority are required to impose.
- (7) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **40 Offences**

### **(1) If any person—**

- (a) causes or procures any child or, being his parent or guardian, allows him, to take part in any performance in contravention of section 37 of this Act; or
- (b) fails to observe any condition subject to which a licence under that section is granted, or any condition prescribed under subsection (3) of that section ; or
- (c) knowingly or recklessly makes any false statement in or in connection with an application for a licence under that section;

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or imprisonment for a term not exceeding three months or both.

- (2) If any person fails to keep or produce any record which he is required to keep or produce under section 39 of this Act, he shall be liable on summary conviction to a fine not exceeding fifty pounds or imprisonment for a term not exceeding three months or both.
- (3) The court by which the holder or one of the holders of a licence under section 37 of this Act is convicted of an offence under this section may revoke the licence.
- (4) In any proceedings for an offence under this section alleged to have been committed by causing, procuring or allowing a child to take part in a performance without a licence under section 37 of this Act it shall be a defence to prove that the accused believed that the condition specified in paragraph (a) of subsection (3) of that section was satisfied and that he had reasonable grounds for that belief.

## **41 Licences for training persons between 12 and 16 for performances of a dangerous nature**

- (1) The power to grant licences under section 24 of the principal Act (which relates to the training of persons under the age of sixteen to take part in performances of a dangerous nature) shall be exercisable by the local authority for the area or one of the areas in which the training is to take place instead of by a magistrates' court.
- (2) A licence under the said section 24 or under section 34 of the principal Scottish Act (which makes provision in Scotland similar to that made in England and Wales by the said section 24 as amended by subsection (1) of this section) may be revoked or varied by the authority who granted it if any of the conditions embodied therein are not complied with or if it appears to them that the person to whom the licence relates is no longer fit and willing to be trained or that proper provision is no longer being made to secure his health and kind treatment.
- (3) Where an authority refuse an application for such a licence or revoke or vary such a licence they shall state their grounds for doing so in writing to the applicant, or, as the case may be, to the holder of the licence, and the applicant or holder may appeal to a magistrates' court or, in Scotland, to the sheriff, against the refusal, revocation or variation.

## **42 Licences for children and young persons performing abroad**

- (1) Section 25 of the principal Act (which prohibits persons under eighteen from going abroad for the purpose of performing for profit except under the authority of a licence granted under that section) and section 26 of that Act (which imposes penalties for contraventions) shall have effect as if the words " singing, playing, performing or

being exhibited" included taking part in any such performance as is mentioned in paragraph (c) or (d) of section 37(2) of this Act.

- (2) A licence under the said section 25 may be granted in respect of a person notwithstanding that he is under the age of fourteen if—
- (a) the engagement which he is to fulfil is for acting and the application for the licence is accompanied by a declaration that the part he is to act cannot be taken except by a person of about his age; or
  - (b) the engagement is for dancing in a ballet which does not form part of an entertainment of which anything other than ballet or opera also forms part and the application for the licence is accompanied by a declaration that the part he is to dance cannot be taken except by a child of about his age; or
  - (c) the engagement is for taking part in a performance the nature of which is wholly or mainly musical or which consists only of opera and ballet and the nature of his part in the performance is wholly or mainly musical.

#### **43 Extended powers of entry**

For subsection (2) of section 28 of the principal Act and for subsection (2) of section 36 of the principal Scottish Act there shall be substituted the following subsection:—

- “(2) Any authorised officer of the said authority or any constable may—
- (a) at any time enter any place used as a broadcasting studio or film studio or used for the recording of a performance with a view to its use in a broadcast or in a film intended for public exhibition and make inquiries therein as to any children taking part in performances to which section 37 of the Children and Young Persons Act 1963 applies;
  - (b) at any time during the currency of a licence granted under the said section 37 or under the provisions of this Part of this Act relating to training for dangerous performances enter any place (whether or not it is such a place as is mentioned in paragraph (a) of this subsection) where the person to whom the licence relates is authorised by the licence to take part in a performance or to be trained, and may make inquiries therein with respect to that person.”