

Status: Point in time view as at 01/04/2008.

Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons Act 1969, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

APPROVED SCHOOLS AND OTHER INSTITUTIONS

Modifications etc. (not altering text)

- C1** Sch. 3 amended by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [Sch. 2 para. 17](#)

Provisions as to staff

- 1 (1) This paragraph applies where it appears to the Secretary of State that on the date specified in an order under section 46 of this Act (in the following provisions of this Schedule referred to as a “section 46 order”) all or any of the premises used for the purposes of the institution to which the order relates are to be used for the purposes—
- (a) of a community home, or
 - (b) of a school of any of the following descriptions, namely, a county school, a voluntary school which is a controlled or aided school, or a special school;
- and in this Schedule “the specified date”, in relation to an institution to which a section 46 order relates, means the date specified in that order.
- (2) Where this paragraph applies the Secretary of State may, by the section 46 order, make such provision as he considers appropriate with respect to—
- (a) the transfer of existing staff to the employment of the authority, voluntary organisation or other body of persons responsible for the employment of persons at the community home or school, as the case may be; and
 - (b) the transfer to a local authority or voluntary organisation specified in the order of any liabilities (including contingent and future liabilities) with respect to the payment of superannuation and other benefits to or in respect of existing staff and retired staff.
- [^{F1}(3) In respect of any such superannuation or other benefits as are referred to in sub-paragraph (2)(b) of this paragraph, being benefits to which a person became entitled before the specified date and to which the ^{M1}Pensions (Increase) Act 1971 does not apply, the section 46 order may contain such provisions for securing the payment of additional amounts (calculated by reference to increases under that Act or under any enactment repealed by it) as the Secretary of State considers appropriate having regard to any arrangements obtaining with respect to those benefits before the specified date.]
- (4) Where this paragraph applies the section 46 order—
- (a) shall contain provisions for the protection of the interests of any existing staff whose employment is transferred as mentioned in sub-paragraph (2)(a) of this paragraph;

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- (b) may contain provisions for the protection of the interests of existing staff whose employment is not so transferred; and
- (c) may contain provisions applying, amending or repealing any provision made by or under any enactment and relating to the conditions of service of existing staff or the payment of superannuation and other benefits to or in respect of existing or retired staff;

and in a case falling within sub-paragraph (1)(b) of this paragraph any provisions made under paragraph (a) of this sub-paragraph shall have effect notwithstanding any provision made by or under any enactment and relating to the remuneration of teachers.

(5) In this paragraph “existing staff” in relation to a section 46 order means persons who, immediately before the specified date, were employed for the purposes of the institution to which the order relates, and “retired staff” in relation to such an order means persons who, at some time before the specified date, were employed for those purposes but ceased to be so employed before the specified date.

Textual Amendments

F1 Sch. 3 para. 1(3) substituted by [Pensions \(Increase\) Act 1971 \(c. 56, SIF 101A:3\)](#), [Sch. 3 para. 5](#)

Marginal Citations

M1 [1971 c. 56\(101A:3\)](#).

2 (1) F2

^{X1}(2) In accordance with sub-paragraph (1) of this paragraph, subsection (2) of the said section 60 shall be amended as follows:

- “(a) after the words “ under the regulations” there shall be inserted the words “ or, in a case to which paragraph 2 of Schedule 3 to the Children and Young Persons Act 1969 applies, by the Secretary of State” ; and
- (b) after the words “ order under Part I of the Police Act 1964” there shall be inserted the words “ or of an order under section 46 of the Children and Young Persons Act 1969”.”

(3) Where a section 46 order is made in relation to an approved institution but paragraph 1 of this Schedule does not apply in relation to that institution, the section 46 order may make such provision as the Secretary of State considers appropriate with respect to the transfer to him of any such liabilities as are referred to in sub-paragraph (2) (b) of that paragraph and the payment by him of any such additional amount as is referred to in sub-paragraph (3) of that paragraph.

Editorial Information

X1 The text of Sch. 3 para. 2(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F2 [Sch. 3 para. 2\(1\)](#) repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 30](#)

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Use of premises as homes for children in care

- 3
- (1) If on the day specified for the purposes of section 7(5) of this Act premises are used for the purposes of an approved school, then during the period (in this Schedule referred to, in relation to an approved school, as “the interim period”) beginning immediately after that day and ending on the day on which the school ceases to be an approved school (whether by virtue of a section 46 order or otherwise) those premises may be used for the accommodation and maintenance of children in the care of local authorities.
 - (2) If during the interim period the premises of an approved school are used for the accommodation and maintenance of children in the care of a local authority then, during that period,
 - (a) any reference in section 21(1) or section 31 of this Act to a community home includes a reference to those premises; and
 - (b) for the reference in section 18(1)(c) of the ^{M2}Criminal Justice Act 1961 (directions of Secretary of State as to management of approved schools) to persons under the care of the managers there shall be substituted a reference to the children in the care of local authorities who are accommodated and maintained in those premises.
 - (3) At the request of the managers of an approved school the Secretary of State may, at any time during the interim period, give a direction—
 - (a) that so much as may be specified in the direction of any rules made under paragraph 1(1) of Schedule 4 to the Act of 1933 (approved school rules) and of any rules made by the managers and approved by him under paragraph 1(2) of that Schedule shall no longer apply in relation to that school; and
 - (b) that, in place of those rules, so much as may be specified in the direction of any regulations made under section 43 of this Act shall apply, subject to such adaptations and modifications as may be so specified, in relation to the approved school as if it were a community home.
 - (4) If the effect of the application, by a direction under sub-paragraph (3) above, of any provision of regulations made under section 43 of this Act in relation to an approved school would be to impose any duty or confer any power on a local authority in relation to that school, the Secretary of State shall not give a direction applying that provision except with the consent of the local authority concerned.

Marginal Citations

M2 1961 c. 39(39:1).

- 4
- (1) If on the day specified for the purposes of section 7(5) of this Act a remand home was designated under section 11 of the Act of 1963 as a classifying centre then, during the period beginning immediately after that day and ending on the date specified in a section 46 order relating to that home, the home may be used for the accommodation and maintenance of children in the care of local authorities.
 - (2) In this Schedule “classifying centre” means a remand home designated as mentioned in sub-paragraph (1) of this paragraph and, in relation to a classifying centre, the period specified in that sub-paragraph is referred to as “the interim period”.
 - (3) During the interim period—

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- (a) the expenses of a local authority in providing and maintaining a classifying centre in relation to the whole or part of the expenses of which a direction has been given by the Secretary of State under section 11(3) of the Act of 1963 shall be treated for the purposes of section 104 of the Act of 1933 as if they were expenses incurred by the authority as managers of an approved school;
- (b) subsections (4) and (5) of section 106 of the Act of 1933 shall apply in relation to a classifying centre as they apply in relation to an approved school the managers of which are a local authority; and
- (c) any reference in section 21(1) or section 31 of this Act to a community home includes a reference to a classifying centre.
- 5 (1) Where a section 46 order is made in relation to an approved school or approved probation hostel or home and, in a regional plan approved by the Secretary of State, the whole or any part of the premises of the institution is designated as a controlled or assisted community home, the premises so designated may, after the specified date, be used for the purpose specified in the regional plan.
- (2) Without prejudice to any power to vary the provisions of a trust deed relating to a community home consisting of premises designated as mentioned in sub-paragraph (1) of this paragraph, the purpose referred to in that sub-paragraph shall be deemed to be included among the purposes for which the premises are held in accordance with a trust deed relating to that home.
- 6 (1) Where a section 46 order is made in relation to an approved institution (other than an institution provided by a local authority) and, in a regional plan approved by the Secretary of State, the whole or any part of the premises of the institution is designated as a community home to be provided by a local authority, then if the Secretary of State is satisfied that the premises so designated were to a substantial extent provided with the assistance of grants under section 104 of the Act of 1933 or [F3section 20 of the Probation Service Act 1993][F4or section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000][F5or under sections 3, 6 or 13 of the Offender Management Act 2007], he may, by an authorisation in writing under this paragraph, authorise the transfer of the premises so designated to that local authority.
- (2) The transfer of any premises in pursuance of an authorisation under this paragraph—
- (a) shall be on such terms, as to payment and other matters, as may be agreed between the local authority concerned and the trustees or other persons in whom the premises are vested and, if the authorisation so provides, as may be approved by the Secretary of State;
- (b) shall not take effect before the specified date; and
- (c) shall operate to vest the premises transferred in the local authority free from any charitable trust and from any other obligation requiring the use of the premises for the purposes of an approved institution.
- (3) Before giving an authorisation under this paragraph authorising the transfer of any premises belonging to a charity or otherwise held on charitable trusts, the Secretary of State shall consult the [F6Charity Commission].

Textual Amendments

F3 Words in Sch. 3 para. 6(1) substituted (5.2.1994) by virtue of 1993 c. 47, ss. 32, 33, **Sch. 3 para. 3(4)(a)**.

F4 Words in Sch. 3 para. 6(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(2)**; S.I. 2001/919, **art. 2(f)(ii)**

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- F5** Words in Sch. 3 para. 6(1) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 3(3)(a)**
- F6** Words in Sch. 3 para. 6(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 53**; S.I. 2007/309, art. 2, Sch.

- 7 The provisions of paragraphs 3 to 6 of this Schedule shall have effect notwithstanding anything in the law relating to charities or in any deed or other instrument regulating the purposes for which any premises may be used.

Financial provisions

- 8 (1) During the period which is the interim period in relation to an approved school or to a classifying centre falling within paragraph 4(3)(a) of this Schedule contributions shall be payable by local authorities to the managers of that school or, as the case may be, the local authority providing the classifying centre in respect of children in the care of the authorities who are accommodated and maintained in the school premises or the classifying centre in accordance with paragraph 3(1) or paragraph 4(1) of this Schedule.
- (2) The contributions payable by a local authority under sub-paragraph (1) above in respect of a child in their care shall be payable throughout the time during which the child is accommodated and maintained in the approved school or classifying centre concerned and shall be such as may be prescribed by regulations made by the Secretary of State.
- 9 (1) Where a section 46 order is made in relation to an approved institution, other than an institution provided by a local authority, and in a regional plan approved by the Secretary of State the whole or any part of the premises of the approved institution is designated as a community home, then,—
- (a) on the coming into force of an instrument of management for a voluntary home which consists of or includes the premises so designated; or
- (b) on the transfer of the premises so designated to a local authority in pursuance of an authorisation under paragraph 6 of this Schedule,
- any such obligation relating to that institution as is referred to in sub-paragraph (2) of this paragraph shall cease.
- (2) Sub-paragraph (1) of this paragraph applies to any obligation arising by virtue of a condition imposed under [^{F7}any] of the following enactments, namely,—
- (a) section 104 of the Act of 1933 (expenses of managers of an approved school); ^{F8} . . .
- (b) [^{F9}section 20 of the Probation Service Act 1993] (expenditure in connection with approved probation hostels or homes).
- [^{F10}(c) section 3 of the Criminal Justice and Court Services Act 2000 (functions of the Secretary of State);
- (d) section 5 of that Act (functions of local probation boards); ^{F11} . . .
- (e) section 9 of that Act (approved premises).]
- [^{F12}(f) section 6 of the Offender Management Act 2007 (power to make grants for probation purposes etc);
- (g) section 2(1) (responsibility for ensuring the provision of probation services) and section 3 (power to make arrangements for the provision of probation services) of the Offender Management Act 2007; or

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- (h) section 13 of the Offender Management Act 2007 (approved premises).]
- (3) In a case falling within sub-paragraph (1) of this paragraph, the section 46 order may contain provisions requiring the responsible authority or organisation or, as the case may be, the local authority to whom the premises are transferred, to pay to the Secretary of State such sum as he may determine in accordance with sub-paragraph (4) of this paragraph by way of repayment of a proportion of any grants made in relation to the former approved institution under either of the enactments referred to in sub-paragraph (2) of this paragraph, but where the community home concerned is an assisted community home, the section 46 order may provide that, with the consent of the Treasury, the Secretary of State may reduce the sum to be paid to him in accordance with the preceding provisions of this sub-paragraph to such sum as he thinks fit.
- (4) For the purpose of determining any such sum as is mentioned in sub-paragraph (3) of this paragraph, the Secretary of State shall assess—
- (a) the amount which in his opinion represents the proportion of the total amount of the grants paid in respect of expenditure in connection with the former approved institution which was attributable to expenditure of a capital nature; and
 - [^{F13}(b) the amount which in his opinion represents the proportion of the contributions paid by local authorities under section 90 of the Act of 1933 or (as the case may be) the proportion of the sums paid by—
 - (i) probation committees under rules made under the Probation Service Act 1993,
 - (ii) the Secretary of State under section 3 or 9 of the Criminal Justice and Court Services Act 2000, ^{F14} ...
 - (iii) local probation boards under section 5 of that Act,
 - [the Secretary of State under sections 6 or 13 of the Offender
 - ^{F15}(iv) Management Act 2007; and
 - (v) providers of probation services under section 3 of the Offender Management Act 2007.]
 which (in either case) should be treated as having been paid on account of expenditure of a capital nature in connection with the former approved institution;]
- (5) If the instrument of management for an assisted community home ceases to have effect as mentioned in subsection (1) of section 48 of this Act there shall be deducted from any sum which is payable to the Secretary of State under subsection (5) of that section any sums paid to him by the responsible organisation in respect of the assisted community home in pursuance of any such provisions of a section 46 order relating to the former approved institution as are referred to in sub-paragraph (3) of this paragraph.
- (6) In this paragraph “the former approved institution”, in relation to a community home, means the approved institution the whole or part of the premises of which are comprised in that home.

Textual Amendments

- F7** Word in Sch. 3 para. 9(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(3)(a)(i)**; S.I. 2001/919, **art. 2(f)(ii)**

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- F8** Word in Sch. 3 para. 9(2) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 43(3)(a)(ii), **Sch. 8; S.I. 2001/919, art. 2(f)(ii)(g)**
- F9** Words in Sch. 3 para. 9(2)(4) substituted (5.2.1994) by virtue of 1993 c. 47, ss. 32, 33, **Sch. 3 para. 3(4)(a)(b)**.
- F10** Sch. 3 para. 9(2)(c)-(e) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(3)(a)(iii); S.I. 2001/919, art. 2(f)(ii)**
- F11** Word in Sch. 3 para. 9(2) omitted (1.4.2008) by virtue of **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, Sch. 1 para. 3(3)(b)(i)**
- F12** Sch. 3 para. 9(2)(f)-(h) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, Sch. 1 para. 3(3)(b)(ii)**
- F13** Sch. 3 para. 9(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 43(3)(b); S.I. 2001/919, art. 2(f)(ii)**
- F14** Word in Sch. 3 para. 9(4)(b) omitted (1.4.2008) by virtue of **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, Sch. 1 para. 3(3)(c)(i)**
- F15** Sch. 3 para. 9(4)(b)(iv)(v) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, Sch. 1 para. 3(3)(c)(ii)**

- 10 (1) The provisions of this paragraph apply where in a regional plan approved by the Secretary of State, the whole or any part of the premises of an approved institution to which a section 46 order relates is designated as a controlled or assisted community home and an instrument of management for a community home which consists of or includes the premises so designated has come into force; and in this paragraph “the former approved institution”, in relation to such a community home, means the approved institution the whole or part of the premises of which are comprised in that home.
- (2) Where this paragraph applies and the community home concerned is a controlled community home, then—
- (a) the Secretary of State may, by the section 46 order, make such provision as he considers appropriate for the transfer to the responsible authority of any rights, liabilities and obligations which, immediately before the specified date, were rights, liabilities and obligations of the managers of, or the society or person carrying on, the former approved institution; and
- (b) except in so far as the section 46 order otherwise provides, any legal proceedings pending immediately before the specified date by or against those managers or that society or person shall be continued on and after that date, with the substitution of the responsible authority for those managers or that society or person as a party to the proceedings.
- (3) Where this paragraph applies and the community home concerned is an assisted community home but the responsible organisation does not consist of the persons who were the managers of or, as the case may be, is not the society or person who carried on, the former approved institution, paragraphs (a) and (b) of sub-paragraph (2) of this paragraph shall apply with the substitution for any reference to the responsible authority of a reference to the responsible organisation.
- (4) If any liabilities of a voluntary organisation which is the responsible organisation in relation to an assisted community home falling within sub-paragraph (1) of this paragraph were incurred by the organisation before the specified date or were transferred to the organisation by the section 46 order (by virtue of sub-paragraph (3) of this paragraph) and, in either case, had the former approved institution continued to be an approved institution, any expenditure incurred in meeting those liabilities would have been eligible for a grant out of moneys provided by Parliament—

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- (a) under section 104(1)(a) of the Act of 1933 as the expenses of the managers of an approved school, or
- (b) under section 77(3)(b) of the ^{M3}Criminal Justice Act 1948 [^{F16}or under section 51(3)(c) of the ^{M4}Powers of Criminal Courts Act 1973][^{F17}or under section 20 of the Probation Service Act 1993][^{F18}or under section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000][^{F19}or under sections 3, 6 or 13 of the Offender Management Act 2007] as expenditure falling within that section and relating to an approved probation hostel or home,

then any expenditure incurred after the specified date by the responsible organisation in meeting those liabilities shall be deemed for the purposes of section 65(1) of this Act to be expenditure incurred by the responsible organisation in connection with the assisted community home in question.

Textual Amendments

- F16** Words inserted by [Powers of Criminal Courts Act 1973 \(c. 62, SIF 39:1\)](#), **Sch. 5 para. 38(c)**
- F17** Words in Sch. 3 para. 10(4) inserted (5.2.1994) by [1993 c. 47, ss. 32, 33](#), **Sch. 3 para. 3(4)(c)**.
- F18** Words in s. 10(4)(b) inserted (1.4.2001) by [2000 c. 43, s. 74](#), **Sch. 7 Pt. II para. 43(4)**; S.I. 2001/919, **art. 2(f)(ii)**
- F19** Words in [Sch. 3 para. 10\(4\)\(b\)](#) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, **Sch. 1 para. 3(3)(d)**

Marginal Citations

- M3** [1948 c. 58\(39:1\)](#).
- M4** [1973 c. 62\(39:1\)](#).

- 11 (1) Where a section 46 order is made in relation to an approved institution and no such provision as is referred to in sub-paragraph (1) of paragraph 9 of this Schedule is made by a regional plan in relation to any part of the premises of the institution, the person or persons on whom falls any such obligation (in this paragraph referred to as a “repayment obligation”) relating to the institution as is referred to in sub-paragraph (2) of that paragraph may apply to the Secretary of State for an order under this paragraph.
- (2) If, on an application under sub-paragraph (1) of this paragraph, it appears to the Secretary of State that on or within a reasonable time after the specified date the premises of the institution concerned or the proceeds of sale of the whole or any part of those premises are to be used for a purpose which is of benefit to children, he may with the consent of the Treasury make an order—
- (a) substituting for the conditions under which the repayment obligation arose such different conditions as he considers appropriate with respect to the repayment of any sum to which the repayment obligation relates; and
 - (b) if the person or persons on whom the repayment obligation falls so request, imposing any liability to repay a sum in pursuance of the substituted conditions referred to in paragraph (a) above on such other person or persons as consent to accept the liability and as, in the opinion of the Secretary of State, will be able to discharge that liability.

Interpretation

- 12 In this Schedule—

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“approved institution” has the same meaning as in section 46 of this Act;
“the responsibility authority”, in relation to a controlled community home,
has the same meaning as in section 41 of this Act;
“the responsible organisation”, in relation to an assisted community home,
has the same meaning as in section 42 of this Act; and
“section 46 order” and, in relation to an institution to which such an order
relates, “specified date” have the meanings assigned to them by paragraph
1(1) of this Schedule.

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