



# Child Care Act 1980

## 1980 CHAPTER 5

An Act to consolidate certain enactments relating to the care of children by local authorities or voluntary organisations and certain other enactments relating to the care of children. [31st January 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### POWERS AND DUTIES OF LOCAL AUTHORITIES IN RELATION TO THE WELFARE AND CARE OF CHILDREN

##### *General duty of local authorities to promote welfare of children*

#### **1 Duty of local authorities to promote welfare of children**

- (1) It shall be the duty of every local authority to make available such advice, guidance and assistance as may promote the welfare of children by diminishing the need to receive children into or keep them in care under this Act or to bring children before a juvenile court; and any provisions made by a local authority under this subsection may, if the local authority think fit, include provision for giving assistance in kind or, in exceptional circumstances, in cash.
- (2) In carrying out their duty under subsection (1) above, a local authority may make arrangements with voluntary organisations or other persons for the provision by those organisations or other persons of such advice, guidance or assistance as is mentioned in that subsection.
- (3) Where any provision which may be made by a local authority under section (1) above is made (whether by that or any other authority) under any other enactment, the local

authority shall not be required to make the provision under this section but shall have power to do so.

- (4) In this section " child " means a person under the age of eighteen.

*Duty of local authorities to assume care of orphans and deserted children etc.*

## **2 Duty of local authority to provide for orphans, deserted children etc.**

- (1) Where it appears to a local authority with respect to a child in their area appearing to them to be under the age of seventeen—

- (a) that he has neither parent nor guardian or has been and remains abandoned by his parents or guardian or is lost; or
- (b) that his parents or guardian are, for the time being or permanently, prevented by reason of mental or bodily disease or infirmity or other incapacity or any other circumstances from providing for his proper accommodation, maintenance and upbringing; and
- (c) in either case, that the intervention of the local authority under this section is necessary in the interests of the welfare of the child,

it shall be the duty of the local authority to receive the child into their care under this section.

- (2) Where a local authority have received a child into their care under this section, it shall, subject to the provisions of this Part of this Act, be their duty to keep the child in their care so long as the welfare of the child appears to them to require it and the child has not attained the age of eighteen.

- (3) Nothing in this section shall authorise a local authority to keep a child in their care under this section if any parent or guardian desires to take over the care of the child, and the local authority shall, in all cases where it appears to them consistent with the welfare of the child so to do, endeavour to secure that the care of the child is taken over either—

- (a) by a parent or guardian of his, or
- (b) by a relative or friend of his, being, where possible, a person of the same religious persuasion as the child or who gives an undertaking that the child will be brought up in that religious persuasion.

- (4) Where a local authority receive into their care under this section a child who is then ordinarily resident in the area of another local authority—

- (a) that other local authority may at any time not later than three months after the determination (whether by agreement between the authorities or in accordance with the following provisions of this subsection) of the ordinary residence of the child, or with the concurrence of the first mentioned authority at any subsequent time, take over the care of the child; and
- (b) the first mentioned authority may recover from the other authority any expenses duly incurred by them under Part III of this Act in respect of the child (including any expenses so incurred after he has ceased to be a child and, if the other authority takes over the care of him, including also any travelling or other expenses incurred in connection with the taking over).

Any question arising under this subsection as to the ordinary residence of a child shall be determined by the Secretary of State and in this subsection any reference to another

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local authority includes a reference to a local authority within the meaning of the Social Work (Scotland) Act 1968.

- (5) In determining for the purposes of subsection (4) above the ordinary residence of any child, any period during which he resides in any place—
- (a) as an inmate of a school or other institution, or
  - (b) in accordance with the requirements of a supervision order or probation order or of a supervision requirement, or
  - (c) in accordance with the conditions of a recognisance, or
  - (d) while boarded out under this Act, the Children and Young Persons (Scotland) Act 1937 or Part II of the Social Work (Scotland) Act 1968 by a local authority or education authority,
- shall be disregarded.
- (6) Any reference in this section to the parents or guardian of a child shall be construed as a reference to all the persons who are parents of the child or who are guardians of the child.

### **3 Assumption by local authority of parental rights and duties**

- (1) Subject to the provisions of this Part of this Act, if it appears to a local authority in relation to any child who is in their care under section 2 of this Act—
- (a) that his parents are dead and he has no guardian or custodian; or
  - (b) that a parent of his—
    - (i) has abandoned him, or
    - (ii) suffers from some permanent disability rendering him incapable of caring for the child, or
    - (iii) while not falling within sub-paragraph (ii) of this paragraph, suffers from a mental disorder (within the meaning of the Mental Health Act 1959), which renders him unfit to have the care of the child, or
    - (iv) is of such habits or mode of life as to be unfit to have the care of the child, or
    - (v) has so consistently failed without reasonable cause to discharge the obligations of a parent as to be unfit to have the care of the child; or
  - (c) that a resolution under paragraph (b) of this subsection is in force in relation to one parent of the child who is, or is likely to become, a member of the household comprising the child and his other parent; or
  - (d) that throughout the three years preceding the passing of the resolution the child has been in the care of a local authority under section 2 of this Act, or partly in the care of a local authority and partly in the care of a voluntary organisation,
- the local authority may resolve that there shall vest in them the parental rights and duties with respect to that child, and, if the rights and duties were vested in the parent on whose account the resolution was passed jointly with another person, they shall also be vested in the local authority jointly with that other person.
- (2) In the case of a resolution passed under paragraph (b), (c) or (d) of subsection (1) above, unless the person whose parental rights and duties have under the resolution vested in the local authority has consented in writing to the passing of the resolution, the local authority, if that person's whereabouts are known to them, shall forthwith after the passing of the resolution serve on him notice in writing of the passing thereof.

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- (3) Every notice served by a local authority under subsection (2) above shall inform the person on whom the notice is served of his right to object to the resolution and the effect of any objection made by him.
- (4) If, not later than one month after notice is served on a person under subsection (2) above, he serves a counter-notice in writing on the local authority objecting to the resolution, the resolution shall, subject to the provisions of subsections (5) and (6) below, lapse on the expiry of fourteen days from the service of the counter-notice.
- (5) Where a counter-notice has been served on a local authority under subsection (4) above, the authority may not later than fourteen days after the receipt by them of the counter-notice complain to a juvenile court having jurisdiction in the area of the authority, and in that event the resolution shall not lapse until the determination of the complaint.
- (6) On hearing a complaint made under subsection (5) above the court may if it is satisfied—
- (a) that the grounds mentioned in subsection (1) above on which the local authority purported to pass the resolution were made out, and
  - (b) that at the time of the hearing there continue to be grounds on which a resolution under that subsection could be founded, and
  - (c) that it is in the interests of the child to do so,
- order that the resolution shall not lapse by reason of the service of the counter-notice.
- (7) Any notice under this section (including a counter-notice) may be served by post, so however that a notice served by a local authority under subsection (2) above shall not be duly served by post unless it is sent by registered post or recorded delivery service.
- (8) Where, after a child has been received into the care of a local authority under section 2 of this Act, the whereabouts of any parent of his have remained unknown for twelve months, then, for the purposes of this section, the parent shall be deemed to have abandoned the child.
- (9) The Secretary of State may by order a draft of which has been approved by each House of Parliament amend subsection (1)(d) above by substituting a different period for the period mentioned/in that paragraph (or the period which, by a previous order under this subsection, was substituted for that period).
- (10) In this section—
- "parent", except in subsection (1)(a), includes a guardian or custodian;
  - "parental rights and duties", in relation to a particular child, does not include—
- (a) the right to consent or refuse to consent to the making of an application under section 18 of the Adoption Act 1976 (orders freeing a child for adoption in England and Wales) or section 18 of the Adoption (Scotland) Act 1978 (orders freeing a child for adoption in Scotland), and
  - (b) the right to agree or refuse to agree to the making of an adoption order or an order under section 55 of the Adoption Act 1976 (orders in England and Wales authorising adoption abroad) or section 49 of the Adoption (Scotland) Act 1978 (orders in Scotland authorising adoption abroad).

#### **4 Effect of resolution under s. 3**

- (1) While a resolution passed under subsection (1)(b), (c) or (d) of section 3 of this Act is in force with respect to a child, section 2(3) of this Act shall not apply in relation to the person who, but for the resolution, would have the parental rights and duties in relation to the child.
- (2) A resolution under section 3 of this Act shall not relieve any person from any liability to maintain, or contribute to the maintenance of, the child.
- (3) A resolution under section 3 of this Act shall not authorise a local authority to cause a child to be brought up in any religious creed other than that in which he would have been brought up but for the resolution.

#### **5 Duration and rescission of resolutions under s. 3**

- (1) Subject to the provisions of this Part of this Act, a resolution under section 3 of this Act shall continue in force until the child with respect to whom it was passed attains the age of 18.
- (2) A resolution under section 3 of this Act shall cease to have effect if—
  - (a) the child is adopted ;
  - (b) an order in respect of the child is made under section 18 or 55 of the Adoption Act 1976 or section 18 or 49 of the Adoption (Scotland) Act 1978 ; or
  - (c) a guardian of the child is appointed under section 5 of the Guardianship of Minors Act 1971.
- (3) A resolution under section 3 of this Act may be rescinded by resolution of the local authority if it appears to them that the rescinding of the resolution will be for the benefit of the child.
- (4) On a complaint being made—
  - (a) in the case of a resolution passed by virtue of section 3(1)(a) of this Act, by a person claiming to be a parent, guardian or custodian of the child ;
  - (b) in the case of a resolution passed by virtue of section 3(1)(b), (c) or (d) of this Act, by the person who, but for the resolution, would have the parental rights and duties in relation to the child,a juvenile court having jurisdiction where the complainant resides, if satisfied that there was no ground for the making of the resolution or that the resolution should in the interests of the child be determined, may by order determine the resolution, and the resolution shall thereupon cease to have effect.

#### **6 Appeal to the High Court**

An appeal shall lie to the High Court from the making by a juvenile court of an order under section 3(6) or 5(4) of this Act or from the refusal by a juvenile court to make such an order.

#### **7 Guardians ad litem and reports in care proceedings**

- (1) In any proceedings under section 3(6) or 5(4) or 6 of this Act a juvenile court or the High Court may, where it considers it necessary in order to safeguard the interests of the child to whom the proceedings relate, by order make the child a party to the

proceedings and appoint, subject to rules of court, a guardian ad litem of the child for the purposes of the proceedings.

- (2) A guardian ad litem appointed in pursuance of this section shall be under a duty to safeguard the interests of the child in the manner prescribed by rules of court
- (3) Section 6 of the Guardianship Act 1973 shall apply in relation to complaints under section 3(6) or 5(4) of this Act as it applies in relation to applications under section 3(3) of the said Act of 1973.

## **8 Application of Part I in relation to children subject to orders of court**

- (1) The reception of a child into their care by a local authority under section 2 of this Act, and the passing of a resolution with respect to him under section 3 of this Act, shall not affect any supervision order or probation order previously made with respect to him by any court.
- (2) Where an order of any court is in force giving the custody of a child to any person, the foregoing provisions of this Part of this Act shall have effect in relation to the child as if for references to the parents or guardian of the child or to a parent or guardian of his there were substituted references to that person.

## **9 Duty of parents to maintain contact with local authorities having their children in care**

- (1) The parent of a child who is in the care of a local authority under section 2 of this Act shall secure that the appropriate local authority are informed of the parent's address for the time being.
- (2) Where under section 2(4) of this Act a local authority take over the care of a child from another local authority, that other authority shall where possible inform the parent of the child that the care of the child has been so taken over.
- (3) For the purposes of subsection (1) above, the appropriate local authority shall be the authority in whose care the child is for the time being; but where under section 2(4) of this Act a local authority have taken over the care of a child from another authority, then unless and until a parent is informed that the care of a child has been so taken over the appropriate local authority shall in relation to that parent continue to be the authority from whom the care of the child was taken over.
- (4) Any parent who knowingly fails to comply with subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.
- (5) It shall be a defence in any proceeding under subsection (4) above to prove that the defendant was residing at the same address as the other parent of the child and had reasonable cause to believe that the other parent had informed the appropriate authority that both parents were residing at that address.

*Provisions as to children subject to care order etc.*

**10 Powers and duties of local authorities with respect to children committed to their care**

- (1) It shall be the duty of a local authority to whose care a child is committed by a care order or by a warrant under section 23(1) of the Children and Young Persons Act 1969 (which relates to remands in the care of local authorities) to receive the child into their care and, notwithstanding any claim by his parent or guardian, to keep him in their care while the order or warrant is in force.
- (2) A local authority shall, subject to the following provisions of this section, have the same powers and duties with respect to a person in their care by virtue of a care order or such a warrant as his parent or guardian would have apart from the order or warrant and may (without prejudice to the foregoing provisions of this subsection but subject to regulations made in pursuance of section 39 of this Act) restrict his liberty to such extent as the authority consider appropriate.
- (3) A local authority shall not cause a child in their care by virtue of a care order to be brought up in any religious creed other than that in which he would have been brought up apart from the order.
- (4) It shall be the duty of a local authority to comply with any provision included in an interim order in pursuance of section 22(2) of the Children and Young Persons Act 1969 and, in the case of a person in their care by virtue of section 23 of that Act, to permit him to be removed from their care in due course of law.

**11 Appointment of visitor for child subject to care order**

- (1) If a child who is subject to a care order and has attained the age of five is accommodated in a community home or other establishment which he has not been allowed to leave during the preceding three months for the purpose of ordinary attendance at an educational institution or at work and it appears to the local authority to whose care he is committed by the order that—
  - (a) communication between him and his parent or guardian has been so infrequent that it is appropriate to appoint a visitor for him; or
  - (b) he has not lived with or visited or been visited by either of his parents or his guardian during the preceding twelve months,it shall be the duty of the authority to appoint an independent person to be his visitor for the purposes of this subsection; and a person so appointed shall—
  - (i) have the duty of visiting, advising and befriending the child to whom the care order relates ; and
  - (ii) be entitled to exercise on behalf of that child his powers under section 21(2) of the Children and Young Persons Act 1969 (which relates to the discharge of care orders); and
  - (iii) be entitled to recover from the authority who appointed him any expenses reasonably incurred by him for the purposes of his functions under this subsection.
- (2) A person's appointment as a visitor in pursuance of subsection (1) above shall be determined if the care order in question ceases to be in force or he gives notice in writing to the authority who appointed him that he resigns the appointment or the authority give him notice in writing that they terminate it; but the determination of

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such an appointment shall not prejudice any duty under subsection (1) above to make a further appointment.

- (3) In this section "independent person" means a person satisfying such conditions as may be prescribed by regulations made by the Secretary of State with a view to securing that he is independent of the local authority in question and unconnected with any community home.

## **12 Supplementary provisions relating to children subject to care order etc.**

- (1) While a care order other than an interim order is in force in respect of a child who has not attained the age of eighteen, it shall be the duty of his parent to keep the local authority to whose care he is committed by the order informed of the parent's address; and if the parent knows of the order and fails to perform his duty under this subsection, the parent shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10 unless he shows that at the material time he was residing at the address of the other parent and had reasonable cause to believe that the other parent had kept the authority informed of their address.
- (2) The functions conferred on a local authority by sections 10 and 11 of this Act in respect of any child are additional to the functions which are conferred on the authority in respect of the child by Part III of this Act.

## **PART II**

### ABSENCE FROM CARE

#### *Provisions relating to children in care of local authorities under section 2*

## **13 Penalty for assisting children in care under s. 2 to run away etc.**

- (1) Any person who—
- (a) knowingly assists or induces or persistently attempts to induce a child to whom this subsection applies to run away, or
  - (b) without lawful authority takes away such a child, or
  - (c) knowingly harbours or conceals such a child who has run away or who has been taken away or prevents him from returning,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding three months or to both.

This subsection applies to any child in the care of a local authority under section 2 of this Act with respect to whom a resolution is in force under section 3 of this Act and for whom accommodation (whether in a home or otherwise) is being provided by the local authority in pursuance of Part III of this Act.

- (2) Except in relation to an act done—
- (a) with the consent of the local authority or
  - (b) by a parent or guardian of the child who has given the local authority not less than twenty-eight days' notice of his intention to do it,

subsection (1) above shall apply to a child in the care of a local authority under section 2 of this Act (notwithstanding that no resolution is in force under section 3



of this Act with respect to the child) if he has been in the care of that local authority throughout the preceding six months; and for the purposes of the application of paragraph (b) of that subsection in such a case a parent or guardian of the child shall not be taken to have lawful authority to take him away.

- (3) References in subsection (1) above to running away or taking away or to returning are references to running away or taking away from, or to returning to, a place where accommodation is or was being provided in pursuance of Part III of this Act by the local authority in whose care the child is.
- (4) Where an order of any court is in force giving custody of a child to any person, this section shall have effect in relation to that child as if for references to a parent or guardian of the child there were substituted references to that person.
- (5) The Secretary of State may by order a draft of which has been approved by each House of Parliament amend subsection (2) above by substituting a different period for the period of twenty-eight days or of six months mentioned in that subsection, or by substituting a different period for any period substituted by a previous order under this subsection.

#### **14 Harboursing or concealing child required to return to local authority**

Where a local authority have, in accordance with section 21(2) of this Act, allowed any person to take charge of a child with respect to whom a resolution under section 3 of this Act is in force and have by notice in writing required that person to return the child at a time specified in the notice (which, if that person has been allowed to take charge of the child for a fixed period, shall not be earlier than the end of that period) any person who harbours or conceals the child after that time or prevents him from returning as required by the notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding two months or to both.

#### **15 Recovery of children in care under s. 2**

- (1) This section applies to a child—
  - (a) who is in the care of a local authority under section 2 of this Act; and
  - (b) with respect to whom there is in force a resolution under section 3 of this Act; and
  - (c) who—
    - (i) has run away from accommodation provided for him by the local authority under Part III of this Act; or
    - (ii) has been taken away from such accommodation contrary to section 13(1) of this Act; or
    - (iii) has not been returned to the local authority as required by a notice served under section 14 of this Act on a person under whose charge and control the child was, in accordance with section 21(2) of this Act, allowed to be.
- (2) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for believing that a person specified in the information can produce a child to whom this section applies, he may issue a summons directed to the person so specified and requiring him to attend and produce the child before a magistrates' court acting for the same petty sessions area as the justice.

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- (3) Without prejudice to the powers under subsection (2) above, if a justice of the peace is satisfied by information on oath that there are reasonable grounds for believing that a child to whom this section applies is in premises specified in the information, he may issue a search warrant authorising a person named in the warrant, being an officer of the local authority in whose care the child is, to search the premises for the child; and if the child is found, he shall be placed in such accommodation as the local authority may provide for him under Part III of this Act.
- (4) A person who, without reasonable excuse, fails to comply with a summons under subsection (2) above shall, without prejudice to any liability apart from this subsection, be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

*Provisions relating to children in care of local authorities by virtue of care order etc.*

## **16 Recovery of children subject to care order etc.**

- (1) If any child—
- (a) who is committed to the care of a local authority by a care order or by a warrant under section 23(1) of the Children and Young Persons Act 1969 (which relates to remands to the care of local authorities); or
  - (b) who is in the care of a local authority in pursuance of arrangements under section 29(3) of that Act (which relates to the detention of arrested children),
- is absent from the premises at which he is required by the local authority to live at a time when he is not permitted by the local authority to be absent from the premises, he may be arrested by a constable anywhere in the United Kingdom or the Channel Islands without a warrant and shall if so arrested be conducted, at the expense of the authority, to those premises or such other premises as the authority may direct.
- (2) If a magistrates' court is satisfied by information on oath that there are reasonable grounds for believing that a person specified in the information can produce a child who is absent as mentioned in subsection (1) above, the court may issue a summons directed to the person so specified and requiring him to attend and produce the absent child before the court; and a person who without reasonable excuse fails to comply with any such requirement shall, without prejudice to any liability apart from this subsection, be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (3) Without prejudice to its powers under subsection (2) above a magistrates' court may, if it is satisfied by information on oath that there are reasonable grounds for believing that a child who is absent as mentioned in subsection (1) above is in premises specified in the information, issue a search warrant authorising a constable to search the premises for that child.
- (4) A person who knowingly compels, persuades, incites or assists a child to become or continue to be absent as mentioned in subsection (1) above shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £400 or to both.
- (5) The reference to a constable in subsections (1) and (3) above includes a reference to a person who is a constable under the law of any part of the United Kingdom, to a member of the police in Jersey and to an officer of police within the meaning of section 43 of the Larceny (Guernsey) Law 1958 or any corresponding law for the time being in force.

- (6) In the application of subsections (2) and (3) above to Northern Ireland, " magistrates' court" means a magistrates' court within the meaning of the Magistrates' Courts Act (Northern Ireland) 1964.

### **PART III**

#### **TREATMENT OF CHILDREN WHO ARE OR HAVE BEEN IN CARE OF LOCAL AUTHORITIES**

#### **17 Children to whom Part III applies**

Except where the contrary intention appears, any reference in this Part of this Act to a child who is or was in the care of a local authority is a reference to a child who is or was in the care of the authority under section 2 of this Act or by virtue of a care order or a warrant under section 23(1) of the Children and Young Persons Act 1969 (which relates to remands to the care of local authorities).

#### **18 General duty of local authority in relation to children in their care**

- (1) In reaching any decision relating to a child in their care, a local authority shall give first consideration to the need to safeguard and promote the welfare of the child throughout his childhood; and shall so far as practicable ascertain the wishes and feelings of the child regarding the decision and give due consideration to them, having regard to his age and understanding.
- (2) In providing for a child in their care a local authority shall make such use of facilities and services available for children in the care of their own parents as appears to the local authority reasonable in his case.
- (3) If it appears to the local authority that it is necessary, for the purpose of protecting members of the public, to exercise their powers in relation to a particular child in their care in a manner which may not be consistent with their duty under subsection (1) above, the authority may, notwithstanding that duty, act in that manner.

#### **19 Power of Secretary of State to give directions to local authority for protection of public**

If the Secretary of State considers it necessary, for the purpose of protecting members of the public, to give directions to a local authority with respect to the exercise of their powers in relation to a particular child in their care, he may give such directions to the authority; and it shall be the duty of the authority, notwithstanding their general duty under section 18(1) of this Act, to comply with any such directions.

#### **20 Review of care cases**

- (1) Without prejudice to their general duty under section 18(1) of this Act, it shall be the duty of a local authority to review the case of each child in their care in accordance with regulations made under subsection (2) below.
- (2) The Secretary of State may by regulations make provision as to—
  - (a) the manner in which cases are to be reviewed under this section;

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- (b) the considerations to which the local authority are to have regard in reviewing cases under this section ; and
- (c) the time when a child's case is first to be reviewed and the frequency of subsequent reviews under this section.

## **21 Provision of accommodation and maintenance for children in care**

- (1) A local authority shall discharge their duty to provide accommodation and maintenance for a child in their care in such one of the following ways as they think fit, namely.—
- (a) by boarding him out on such terms as to payment by the authority and otherwise as the authority may, subject to the provisions of this Act and regulations thereunder, determine; or
  - (b) by maintaining him in a community home or in any such home as is referred to in section 80 of this Act; or
  - (c) by maintaining him in a voluntary home (other than a community home) the managers of which are willing to receive him ;
- or by making such other arrangements as seem appropriate to the local authority.
- (2) Without prejudice to the generality of subsection (1) above, a local authority may allow a child in their care, either for a fixed period or until the local authority otherwise determine, to be under the charge and control of a parent, guardian, relative or friend.
- (3) The terms, as to payment and other matters, on which a child may be accommodated and maintained in any such home as is referred to in section 80 of this Act shall be such as the Secretary of State may from time to time determine.

## **22 Regulations as to boarding out**

- (1) The Secretary of State may by regulations make provision for the welfare of children boarded out by local authorities under section 21(1)(a) of this Act.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide—
- (a) for the recording by local authorities of information relating to persons with whom children are boarded out under section 21(1)(a) of this Act and persons who are willing to have children so boarded out with them;
  - (b) for securing that children shall not be boarded out in any household unless that household is for the time being approved by such local authority as may be prescribed by the regulations ;
  - (c) for securing that where possible the person with whom any child is to be boarded out is either of the same religious persuasion as the child or gives an undertaking that the child will be brought up in that religious persuasion;
  - (d) for securing that children boarded out under section 21(1)(a) of this Act, and the premises in which they are boarded out, will be supervised and inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it.

### **23 Power of local authority to guarantee apprenticeship deeds etc. of children in their care**

While a child is in the care of a local authority under section 2 of this Act, the local authority may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship entered into by that child; and where the local authority have undertaken any such obligation under any deed or articles they may at any time (whether or not the person concerned is still in their care) undertake the like obligation under any deed or articles supplemental thereto.

### **24 Power of local authorities to arrange for emigration of children**

- (1) A local authority may, with the consent of the Secretary of State, procure or assist in procuring the emigration of any child in their care.
- (2) Subject to subsection (3) below, the Secretary of State shall not give his consent under this section unless he is satisfied that emigration would benefit the child and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going, that the parents or guardians of the child have been consulted or that it is not practicable to consult them, and that the child consents.
- (3) Where a child is too young to form or express a proper opinion on the matter, the Secretary of State may consent to his emigration notwithstanding that the child is unable to consent thereto in any case where the child is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian, relative or friend.
- (4) In subsection (2) above the reference to the parents or guardians of a child shall be construed as a reference to all the persons who are parents of the child or who are guardians of the child.
- (5) Section 56 of the Adoption Act 1976 (which requires the authority of an order under section 55 of that Act or section 49 of the Adoption (Scotland) Act 1978 for the taking or sending abroad for adoption of a child who is a British subject) shall not apply in the case of any child emigrating with the consent of the Secretary of State given under this section.

### **25 Burial or cremation of deceased children**

- (1) A local authority may cause to be buried or cremated the body of any deceased child who immediately before his death was in the care of the authority; but the authority shall not cause the body to be cremated where cremation is not in accordance with the practice of the child's religious persuasion.
- (2) Where a local authority exercise the power referred to in subsection (1) above, they may if at the time of his death the child had not attained the age of sixteen years recover from any parent of the child any expenses incurred by them under that subsection less any amount received by the authority by way of death grant in respect of that death under section 32 of the Social Security Act 1975.
- (3) Any sums recoverable by a local authority under subsection (2) above shall, without prejudice to any other method for the recovery thereof, be recoverable summarily as a civil debt

- (4) Nothing in this section shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

**26 Power of local authority to defray expenses of parents etc. visiting children or attending funerals**

A local authority may make payments to any parent or guardian of, or other person connected with, a child in their care in respect of travelling, subsistence or other expenses incurred by the parent, guardian or other person in visiting the child or attending his funeral, if it appears to the authority that the parent, guardian or other person would not otherwise be able to visit the child or attend the funeral without undue hardship and that the circumstances warrant the making of the payments.

**27 Financial assistance towards expenses of maintenance education or training of persons over seventeen**

- (1) A local authority may make contributions to the cost of the accommodation and maintenance of any person to whom this subsection applies in any place near the place where he may be employed, or seeking employment, or in receipt of education or training.

This subsection applies to any person over compulsory school age but under the age of twenty-one who is, or has at any time after ceasing to be of compulsory school age been, in the care of a local authority being either—

- (a) a person who has attained the age of seventeen but has not attained the age of eighteen and who has ceased to be in the care of a local authority; or
- (b) a person who has attained the age of eighteen.

- (2) A local authority may make grants to any person to whom this subsection applies to enable him to meet expenses connected with his receiving suitable education or training.

This subsection applies to any person who has attained the age of seventeen but has not attained the age of twenty-one and who at or after the time when he attained the age of seventeen was in the care of a local authority.

- (3) Where a person—
- (a) is engaged in a course of education or training at the time when he attains the age of twenty-one; or
  - (b) having previously been engaged in a course of education or training which has been interrupted by any circumstances, resumes the course as soon as practicable,

then, if a local authority are at that time, or were at the time when the course was interrupted, as the case may be, making any contributions or grants in respect of him under subsection (1) or (2) above, their powers under those subsections shall continue with respect to him until the completion of the course.

**28 After-care of children formerly in care of local authorities under s. 2**

- (1) Where it comes to the knowledge of a local authority that there is in their area any child over compulsory school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer, in the care of a local authority under

section 2 of this Act, then, unless the authority are satisfied that the welfare of the child does not require it, they shall be under a duty so long as he has not attained the age of eighteen to advise and befriend him.

- (2) Where a child over compulsory school age ceases to be in the care of a local authority under section 2 of this Act and proposes to reside in the area of another local authority, the first mentioned local authority shall inform that other local authority.
- (3) Where it comes to the knowledge of a local authority that a child whom they have been befriending in pursuance of this section proposes to transfer or has transferred his residence to the area of another local authority, the first mentioned local authority shall inform that other local authority.

## **29 Power of local authority to visit and assist persons formerly in their care**

Where a person was at or after the time when he attained the age of seventeen in the care of a local authority under section 2 of this Act but has ceased to be in their care, then, while he is under the age of twenty-one, the local authority, if so requested by him, may cause him to be visited, advised and befriended and, in exceptional circumstances, to be given financial assistance.

## **30 Allocation of functions as between local authority and local education authority**

The Secretary of State for Social Services, the Secretary of State for Education and Science and the Secretary of State for Wales acting jointly may make regulations for providing, where a local authority under this Part of this Act and a local education authority as such have concurrent functions, by which authority the functions are to be exercised, and for determining as respects any functions of a local education authority specified in the regulations whether a child in the care of a local authority is to be treated as a child of parents of sufficient resources or a child of parents without resources.

# **PART IV**

## *Community Homes*

## **31 Regional planning of accommodation for children in care**

- (1) With a view to the preparation, in pursuance of the provisions of this Part of this Act, of regional plans for the provision of accommodation for children in the care of local authorities and for the equipment and maintenance of the accommodation, the Secretary of State may by order provide that any area specified in the order shall be a separate area (in this Act referred to as a " planning area ") for the purposes of those provisions.
- (2) Before making an order under subsection (1) above, the Secretary of State shall consult each local authority whose area or any part of whose area is included in the planning area which he proposes should be specified in the order and such other local authorities, if any, as he thinks fit.
- (3) It shall be the duty of the local authorities whose areas are wholly or partly included in a planning area (in this Act referred to, in relation to such an area, as " the relevant

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authorities") to establish for the area, within such period as may be provided by the order specifying the planning area or such longer period as the Secretary of State may allow, a body to be called the children's regional planning committee.

- (4) The provisions of Schedule 1 to this Act shall have effect in relation to children's regional planning committees.
- (5) In the case of an order under subsection (1) above which varies or revokes a previous order under that subsection—
  - (a) the reference in subsection (2) above to the planning area which the Secretary of State proposes should be specified in the order shall be construed as a reference to the planning area as it would be if the variation were made or, as the case may be, to the planning area as it is before the revocation ; and
  - (b) the order may contain such transitional provisions (including provisions as to the expenses and membership of any existing or former children's regional planning committee for a planning area) as the Secretary of State thinks fit.

## **32 Regional plans for community homes**

- (1) The children's regional planning committee for a planning area (in this and section 33 of this Act referred to as " the committee ") shall prepare and submit to the Secretary of State, in accordance with the following provisions of this section, a plan (in this Act referred to as a " regional plan") for the provision and maintenance of homes, to be known as community homes, for the accommodation and maintenance of children in the care of the relevant authorities.
- (2) The community homes for which provision may be made by a regional plan shall be—
  - (a) community homes provided by the relevant authorities ; and
  - (b) voluntary homes provided by voluntary organisations but in the management of each of which the plan proposes that a relevant authority should participate in accordance with an instrument of management.
- (3) Where a regional plan makes provision for any such voluntary home as is referred to in paragraph (b) of subsection (2) above, the plan shall designate the home as either a controlled community home or an assisted community home, according as it is proposed in the plan that the management, equipment and maintenance of the home should be the responsibility of one of the relevant authorities or of the voluntary organisation by which the home is provided.
- (4) Every regional plan shall contain proposals—
  - (a) with regard to the nature and purpose of each of the community homes for which the plan makes provision ; and
  - (b) for the provision of facilities for the observation of the physical and mental condition of children in the care of the relevant authorities and for the assessment of the most suitable accommodation and treatment for those children.
- (5) Before including provision in a regional plan that a community home should be provided by any of the relevant authorities or that a voluntary home provided by a voluntary organisation should be designated as a controlled or assisted community home, the committee shall obtain the consent of the authority or voluntary organisation by which the home is or is to be provided and, in the case of a home which is to be designated as a controlled or assisted community home, the consent of the local



authority which it is proposed should be specified in the instrument of management for the home.

- (6) A regional plan shall be prepared in such form and shall contain such information as the Secretary of State may direct, either generally or in relation to a particular planning area or particular kinds of plans ; and the Secretary of State may direct that the regional plan for a particular planning area shall be submitted to him within such period as may be specified in the direction or such longer period as he may allow.

### **33 Approval and variation of regional plans**

- (1) After considering any regional plan submitted to him under section 32 of this Act and after making in the plan such modifications (if any) as he may agree with the committee by which the plan was submitted and as he may consider appropriate for securing that the plan makes proper provision for the accommodation and maintenance of children in the care of the relevant authorities, the Secretary of State may approve the plan.
- (2) Where the Secretary of State considers that, either with or without such modifications as are referred to in subsection (1) above, part but not the whole of a plan submitted to him under section 32 of this Act makes proper provision for the accommodation and maintenance of the children to whom that part of the plan relates, the Secretary of State may approve that part of the plan.
- (3) Where the Secretary of State has approved part only of a regional plan, the committee for the planning area concerned shall prepare and submit to him under section 32 of this Act a further regional plan containing proposals to supplement that part of the previous plan which was approved by the Secretary of State.
- (4) If, at any time after the approval of the whole or part of a regional plan by the Secretary of State, the committee for the planning area concerned consider that the plan, or such part of it as was approved, should be varied or replaced, they shall prepare and submit to the Secretary of State under section 32 of this Act a further regional plan for that purpose; and any such further regional plan may—
- (a) take the form of a replacement for the regional plan or part thereof which was previously approved by the Secretary of State ; or
  - (b) contain proposals for the amendment of that regional plan or part thereof.
- (5) In relation to a further regional plan which contains proposals for supplementing or amending a regional plan or part of a regional plan which has been previously approved by the Secretary of State (in this subsection referred to as " the approved plan ")—
- (a) section 32(4) of this Act shall have effect as if references to a regional plan were references to the approved plan as it would have effect if supplemented or amended in accordance with the proposals contained in the further regional plan; and
  - (b) subsection (1) above shall have effect as if the reference therein to children in the care of the relevant authorities were a reference to the children to whom the proposals in the plan relate; and
  - (c) in so far as the further regional plan contains proposals under which a home would cease to be a community home, or would become a community home of a different description, or would be used for a purpose different from that provided for in the approved plan, the committee preparing the further plan

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shall, before submitting it to the Secretary of State, obtain the consent of the local authority or voluntary organisation by which the home is provided and, if the proposal is for a home to become or to cease to be a controlled or assisted community home, the consent of the local authority which it is proposed should be, or which is, specified in the instrument of management for the home.

- (6) Where the Secretary of State approves a regional plan, in whole or in part, he shall give notice in writing of his approval to the committee for the planning area concerned specifying the date on which the plan is to come into operation, and the committee shall send a copy of the notice to each of the relevant authorities and to any voluntary organisation whose consent was required to any provision of the plan.

### **34 Provision of community homes by local authorities**

Where a regional plan for a planning area includes provision for a community home to be provided by one of the relevant authorities, it shall be the duty of the local authority concerned to provide, manage, equip and maintain that home.

### **35 Instruments of management for assisted and controlled community homes**

- (1) The Secretary of State may by order make an instrument of management providing for the constitution of a body of managers for any voluntary home which, in accordance with a regional plan approved by him, is designated as a controlled or assisted community home.
- (2) Where, in accordance with a regional plan approved by the Secretary of State, two or more voluntary homes are designated as controlled community homes or as assisted community homes, then if—
- (a) those homes are, or are to be, provided by the same voluntary organisation; and
  - (b) the same local authority is to be represented on the body of managers for those homes,
- a single instrument of management may be made by the Secretary of State under this section constituting one body of managers for those homes or for any two or more of them.
- (3) The number of persons who, in accordance with an instrument of management under this section, constitute the body of managers for a voluntary home shall be such number, being a multiple of three, as may be specified in the instrument of management, but the instrument shall provide that a proportion of the managers shall be appointed by such local authority as may be so specified and—
- (a) in the case of a voluntary home which is designated in a regional plan as a controlled community home, the proportion shall be two-thirds ; and
  - (b) in the case of a voluntary home which is so designated as an assisted community home, the proportion shall be one-third.
- (4) An instrument of management shall provide that the " foundation managers ", that is to say, those of the managers of the voluntary home to which the instrument relates who are not appointed by a local authority in accordance with subsection (3) above, shall be appointed, in such manner and by such persons as may be specified in the instrument,—

- (a) so as to represent the interests of the voluntary organisation by which the home is, or is to be, provided; and
  - (b) for the purpose of securing that, as far as practicable, the character of the home as a voluntary home will be preserved and that, subject to section 36(3) of this Act, the terms of any trust deed relating to the home are observed.
- (5) An instrument of management under this section shall come into force on such date as may be specified in the instrument, and if such an instrument is in force in relation to a voluntary home the home shall be and be known as a controlled community home or an assisted community home, according to its designation in the regional plan.

### **36 Supplementary provisions as to instruments of management and trust deeds**

- (1) An instrument of management for a controlled or assisted community home shall contain such provisions as the Secretary of State considers appropriate for giving effect to the provisions of the regional plan by which the home is designated as a controlled or assisted community home, but nothing in the instrument of management for such a home shall affect the purposes for which the premises comprising the home are held.
- (2) Without prejudice to the generality of subsection (1) above, an instrument of management may contain—
- (a) provisions specifying the nature and purpose of the home or each of the homes to which it relates ;
  - (b) provisions requiring a specified number or proportion of the places in that home or those homes to be made available to local authorities and to any other body specified in the instrument; and
  - (c) provisions relating to the management of that home or those homes and the charging of fees in respect of children placed therein or places made available to any local authority or other body.
- (3) Subject to subsection (1) above, in the event of any inconsistency between the provisions of any trust deed and the instrument of management relating to a controlled or assisted community home, the instrument of management shall prevail over the provisions of the trust deed in so far as they relate to that home.
- (4) After consultation with the voluntary organisation by which a controlled or assisted community home is provided and with the local authority specified in the instrument of management for the time being in force for that home, the Secretary of State may vary or revoke any provisions of that instrument of management by a further instrument of management.
- (5) In this Act the expression " trust deed in relation to a voluntary home, means any instrument (other than an instrument of management) regulating the maintenance, management or conduct of the home or the constitution of a body of managers or trustees of the home.

### **37 Management of controlled community homes**

- (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local authority specified in the instrument of management for that home, and in the following provisions of this section "the responsible authority", in relation to such a home, means the local authority responsible for its management, equipment and maintenance.

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- (2) Subject to the following provisions of this section, the responsible authority shall exercise their functions in relation to a controlled community home through the body of managers constituted by the instrument of management for the home, and anything done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible authority.
- (3) In so far as any matter is reserved for the decision of the responsible authority, either by subsection (4) below or by the instrument of management for the controlled community home in question or by the service by the responsible authority on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible authority themselves and not by the managers, but in dealing with any matter so reserved the responsible authority shall have regard to any representations made to them by the managers.
- (4) The employment of persons at a controlled community home shall be a matter reserved for the decision of the responsible authority, but where the instrument of management so provides the responsible authority may enter into arrangements with the voluntary organisation by which the home is provided whereby, in accordance with such terms as may be agreed between the responsible authority and the voluntary organisation, persons who are not in the employment of the responsible authority shall undertake duties at the home.
- (5) The accounting year of the managers of a controlled community home shall be such as may be specified by the responsible authority and, before such date in each accounting year as may be so specified, the managers of a controlled community home shall submit to the responsible authority estimates, in such form as the authority may require, of expenditure and receipts in respect of the next accounting year ; and any expenses incurred by the managers of a controlled community home with the approval of the responsible authority shall be defrayed by that authority.
- (6) The managers of a controlled community home shall keep proper accounts in respect of that home and proper records in relation to the accounts, but where an instrument of management relates to more than one controlled community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

### **38 Management of assisted community homes**

- (1) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by which the home is provided, and in the following provisions of this section " the responsible organisation ", in relation to such a home, means the voluntary organisation responsible for its management, equipment and maintenance.
- (2) Subject to the following provisions of this section, the responsible organisation shall exercise its functions in relation to the home through the body of managers constituted by the instrument of management for the home, and any thing done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible organisation.
- (3) In so far as any matter is reserved for the decision of the responsible organisation, either by subsection (4) below or by the instrument of management for the assisted community home in question or by the service by the responsible organisation on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible organisation itself and not by the managers, but in dealing

with any matter so reserved the responsible organisation shall have regard to any representations made to the organisation by the managers.

- (4) The employment of persons at an assisted community home shall be a matter reserved for the decision of the responsible organisation but, subject to subsection (5) below—
- (a) where the responsible organisation proposes to engage any person to work at the home or to terminate without notice the employment of any person at the home, the responsible organisation shall consult the local authority specified in the instrument of management and, if the local authority so directs, the responsible organisation shall not carry out its proposal without the consent of the local authority ; and
  - (b) the local authority may, after consultation with the responsible organisation, require the organisation to terminate the employment of any person' at the home.
- (5) Paragraphs (a) and (b) of subsection (4) above shall not apply—
- (a) in such cases or circumstances as may be specified by notice in writing given by the local authority to the responsible organisation; and
  - (b) in relation to the employment of any persons or class of persons specified in the instrument of management.
- (6) The accounting year of the managers of an assisted community home shall be such as may be specified by the responsible organisation and, before such date in each accounting year as may be so specified, the managers of an assisted community home shall submit to the responsible organisation estimates, in such form as the organisation may require, of expenditure and receipts in respect of the next accounting year; and all expenses incurred by the managers of an assisted community home with the approval of the responsible organisation shall be defrayed by the organisation.
- (7) The managers of an assisted community home shall keep proper accounts in respect of that home and proper records in relation to those accounts, but where an instrument of management relates to more than one assisted community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

### **39 Regulations as to conduct of community homes etc.**

- (1) The Secretary of State may make regulations with respect to the conduct of community homes and for securing the welfare of the children in community homes.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may—
- (a) impose requirements as to the accommodation and equipment to be provided in community homes and as to the medical arrangements to be made for protecting the health of the children in the homes;
  - (b) impose requirements as to the facilities which are to be provided for giving religious instruction to children in community homes;
  - (c) require the approval of the Secretary of State for the provision and use of accommodation for the purpose of restricting the liberty of children in community homes and impose other requirements as to the placing of a child in accommodation provided for that purpose, including a requirement to obtain the permission of the local authority or voluntary organisation in whose care the child is ;
  - (d) authorise the Secretary of State to give and revoke directions requiring—

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- (i) the local authority by whom a community home is provided or who are specified in the instrument of management for a controlled community home, or
  - (ii) the voluntary organisation by which an assisted community home is provided,
- to accommodate in the home a child in the care of a local authority for whom no places are made available in that home or to take such action in relation to a child accommodated in the home as may be specified in the directions ;
- (e) require reviews of any permission given in pursuance of paragraph (c) above and provide for such a review to be conducted in a manner approved by the Secretary of State by a committee of persons representing the local authority or voluntary organisation in question but including at least one person satisfying such conditions as may be prescribed by the regulations with a view to securing that he is independent of the authority or organisation and unconnected with any community home containing such accommodation as is mentioned in the said paragraph (c);
  - (f) prescribe standards to which premises used for community homes are to conform;
  - (g) require the approval of the Secretary of State to the use of buildings for the purpose of community homes and to the doing of anything (whether by way of addition, diminution or alteration) which materially affects the buildings or grounds or other facilities or amenities available for children in community homes;
  - (h) provide that, to such extent as may be provided for in the regulations, the Secretary of State may direct that any provision of regulations under this section which is specified in the direction and makes any such provision as is referred to in paragraph (a), (f) or (g) above shall not apply in relation to a particular community home or the premises used for it, and may provide for the variation or revocation of any such direction by the Secretary of State.
- (3) Without prejudice to the power to make regulations under this section conferring functions on the local authority or voluntary organisation by which a community home is provided or on the managers of a controlled or assisted community home, regulations under this section may confer functions in relation to a controlled or assisted community home on the local authority named in the instrument of management for the home.

#### **40 Directions that premises no longer to be used for community home**

- (1) Where it appears to the Secretary of State that any premises used for the purposes of a community home are unsuitable for those purposes, or that the conduct of a community home is not in accordance with regulations made by him under section 39 of this Act or is otherwise unsatisfactory, he may by notice in writing served on the responsible body, direct that as from such date as may be specified in the notice the premises shall not be used for the purposes of a community home.
- (2) Where the Secretary of State has given a direction in relation to a controlled or assisted community home under subsection (1) above and the direction has not been revoked, the Secretary of State may at any time by order revoke the instrument of management for that home.
- (3) For the purposes of subsection (1) above the responsible body—

- (a) in relation to a community home provided by a local authority, is that local authority ;
- (b) in relation to a controlled community home, is the local authority specified in the instrument of management for that home ; and
- (c) in relation to an assisted community home, is the voluntary organisation by which the home is provided.

**41 Controlled and assisted community homes exempted from certain provisions of Part VI**

While a voluntary home is a controlled or assisted community home, sections 57 to 60 of this Act shall not apply in relation to it.

**42 Determination of disputes relating to controlled and assisted community homes**

- (1) Subject to subsection (5) below, where any dispute relating to a controlled community home arises between the local authority specified in the instrument of management and either the voluntary organisation by which the home is provided or any other local authority who have placed, or desire or are required to place, a child in their care in the home, the dispute may be referred by either party to the Secretary of State for his determination.
- (2) Subject to subsection (5) below, where any dispute relating to an assisted community home arises between the voluntary organisation by which the home is provided and any local authority who have placed, or desire to place, a child in their care in the home, the dispute may be referred by either party to the Secretary of State for his determination.
- (3) Where a dispute is referred to the Secretary of State under this section he may, in order to give effect to his determination of the dispute, give such directions as he thinks fit to the local authority or voluntary organisation concerned.
- (4) The provisions of this section shall apply notwithstanding that the matter in dispute may be one which, under or by virtue of the preceding provisions of this Part of this Act, is reserved for the decision, or is the responsibility, of the local authority specified in the instrument of management or, as the case may be, the voluntary organisation by which the home is provided.
- (5) Where any trust deed relating to a controlled or assisted community home contains provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide questions relating to religious instruction given in the home, no dispute which is capable of being dealt with in accordance with that provision shall be referred to the Secretary of State under this section.

**43 Discontinuance by voluntary organisation of controlled or assisted community home**

- (1) The voluntary organisation by which a controlled or assisted community home is provided shall not cease to provide the home except after giving to the Secretary of State and the local authority specified in the instrument of management not less than two years' notice in writing of their intention to do so.

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- (2) A notice under subsection (1) above shall specify the date from which the voluntary organisation intends to cease to provide the home as a community home; and where such a notice is given and is not withdrawn before the date specified in it, then, subject to subsection (4) below, the instrument of management for the home shall cease to have effect on that date and accordingly the home shall then cease to be a controlled or assisted community home.
- (3) Where a notice is given under subsection (1) above, the local authority to whom the notice is given shall inform the children's regional planning committee responsible for the regional plan under which the voluntary home in question was designated as a controlled or assisted community home of the receipt and content of the notice.
- (4) Where a notice is given under subsection (1) above and the body of managers for the home to which the notice relates give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers of the home until the date specified in the first-mentioned notice, the Secretary of State may by order—
  - (a) revoke the instrument of management; and
  - (b) require the local authority who were specified in that instrument to conduct the home, until the date specified in the notice under subsection (1) above or such earlier date (if any) as may be specified for the purposes of this paragraph in the order, as if it were a community home provided by the local authority.
- (5) Where the Secretary of State makes such a requirement as is specified in subsection (4) (b) above—
  - (a) nothing in the trust deed for the home in question shall affect the conduct of the home by the local authority ; and
  - (b) the Secretary of State may by order direct that for the purposes of any provision specified in the direction and made by or under any enactment relating to community homes (other than this section) the home shall, until the date or earlier date specified as mentioned in subsection (4)(b) above, be treated as an assisted community home or as a controlled community home, but except in so far as the Secretary of State so directs, the home shall until that date be treated for the purposes of any such enactment as a community home provided by the local authority; and
  - (c) on the date or earlier date specified as mentioned in subsection (4)(b) above the home shall cease to be a community home.

#### **44 Financial provisions applicable on cessation of controlled or assisted community home**

- (1) Where the instrument of management for a controlled or assisted community home ceases to have effect by virtue either of an order under subsection (2) of section 40 of this Act or of subsection (2) or subsection (4)(a) of section 43 of this Act, the voluntary organisation by which the home was provided or, if the premises used for the purposes of the home are not vested in that organisation, the persons in whom those premises are vested (in this section referred to as " the trustees of the home"), shall become liable, in accordance with the following provisions of this section, to make repayment in respect of any increase in the value of the premises and other property belonging to the voluntary organisation or the trustees of the home which is attributable to the expenditure of public money thereon.



- (2) Where an instrument of management has ceased to have effect as mentioned in subsection (1) above and the instrument related—
- (a) to a controlled community home; or
  - (b) to an assisted community home which, at any time before that instrument of management came into force, was a controlled community home,
- then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the local authority specified in that instrument of management a sum equal to that part of the value of any relevant premises which is attributable to expenditure by the local authority who at the time the expenditure was incurred had responsibility for the management, equipment and maintenance of the home by virtue of section 37(1) of this Act.
- (3) For the purposes of subsection (2) above, "relevant premises", in relation to a controlled or assisted community home, means premises used for the purposes of the home and belonging to the voluntary organisation or the trustees of the home but erected, extended or improved, at any time while the home was a controlled community home, by the local authority having, at that time, such responsibility in relation to the home as is mentioned in that subsection.
- (4) Where an instrument of management has ceased to have effect as mentioned in subsection (1) above and the instrument related—
- (a) to an assisted community home ; or
  - (b) to a controlled community home which, at any time before the instrument of management came into force, was an assisted community home,
- then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the Secretary of State a sum equal to that part of the value of the premises and any other property used for the purposes of the home which is attributable to the expenditure of money provided by way of grant under section 82 of this Act.
- (5) Where an instrument of management has ceased to have effect as mentioned in subsection (1) above and the controlled or assisted community home to which it related was conducted in premises which formerly were used as an approved school or were an approved probation hostel or home but which were designated as a community home in a regional plan approved by the Secretary of State, then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the Secretary of State a sum equal to that part of the value of the premises concerned and of any other property used for the purposes of the home and belonging to the voluntary organisation or the trustees of the home which is attributable to the expenditure—
- (a) of sums paid towards the expenses of the managers of an approved school under section 104 of the Children and Young Persons Act 1933 ; or
  - (b) of sums paid under section 51(3)(c) of the Powers of Criminal Courts Act 1973 in relation to expenditure on approved probation hostels or homes.
- (6) The amount of any sum payable under this section by the voluntary organisation by which a controlled or assisted community home was provided or by the trustees of the home shall be determined in accordance with such arrangements—
- (a) as may be agreed between the voluntary organisation by which the home was provided and the local authority concerned or, as the case may be, the Secretary of State; or

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- (b) in default of agreement, as may be determined by the Secretary of State; and with the agreement of the local authority concerned or the Secretary of State, as the case may be, the liability to pay any sum under this section may be discharged, in whole or in part, by the transfer of any premises or other property used for the purposes of the home in question.
- (7) The provisions of this section shall have effect notwithstanding anything in any trust deed for a controlled or assisted community home and notwithstanding the provisions of any enactment or instrument governing the disposition of the property of a voluntary organisation.
- (8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

## PART V

### CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN IN CARE OF LOCAL AUTHORITIES

#### **45 Liability for contributions in respect of children in care**

- (1) Where—
- (a) a child is in the care of a local authority under section 2 of this Act, or
  - (b) a child is in the care of a local authority by virtue of a care order (other than an interim order),
- the following persons (and no others) shall be liable to make contributions in respect of the child, that is to say—
- (i) if the child has not attained the age of sixteen, the father or mother of the child, and
  - (ii) if the child has attained the age of sixteen and is engaged in remunerative full-time work, the child himself.
- (2) Any contribution which any person is required to make under subsection (1) above shall be payable to the local authority for the area in which that person is for the time being residing.
- (3) Whether or not a contribution order has been made under section 47 of this Act in respect of any child in the care of a local authority, no contribution shall be payable in respect of him for any period during which he is allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend, although remaining in the care of the local authority.
- (4) Where a contribution order is made under section 47 of this Act requiring the father or mother of the child to make contributions in respect of the child, no payments shall be required to be made under the order in respect of any period after the child has attained the age of sixteen.

#### **46 Amount of contributions**

- (1) Where a person is liable under section 45 of this Act to make a contribution in respect of a child in the care of a local authority then, subject to the provisions of this section, the amount of his contribution shall be such as may be proposed by the local authority and agreed by that person or, in default of agreement, as may be determined by a

court under section 47 or 48 of this Act in proceedings for, or for the variation of, a contribution order.

- (2) The maximum contribution which may be proposed by a local authority in respect of a child in their care shall be a weekly amount equal to the weekly amount which, in the opinion of the local authority, they would normally be prepared to pay if a child of the same age were boarded out by them (whether or not the child in respect of whom the contribution is proposed is in fact so boarded out and, if he is, whether or not the local authority are in fact paying that amount).

#### **47 Contribution orders**

- (1) Where—
- (a) the local authority in whose care a child is have, by notice in writing given to a person liable to make a contribution in respect of the child under section 45 of this Act (in this section and section 48 of this Act referred to as a " contributor "), proposed an amount as the amount of his contribution; and
  - (b) either the contributor and the local authority have not, within the period of one month beginning with the day on which the notice was given to the contributor, agreed on the amount of his contribution or the contributor has defaulted in making one or more contributions of an amount which has been agreed,

the local authority entitled under section 45(2) of this Act to receive contributions in respect of the child may apply to a magistrates' court appointed for the commission area where the contributor is for the time being residing for an order under this section.

- (2) On an application under subsection (1) above, the court may make an order (in this Act referred to as a " contribution order ") requiring the contributor to contribute such weekly sum as the court having regard to his means thinks fit, not being greater than the amount proposed in the notice given to the contributor under subsection (1)(a) above.
- (3) Subject to the provisions of this Act, a contribution order in respect of a child in the care of a local authority under section 2 of this Act shall remain in force so long as the child remains in the care of a local authority under that section and a contribution order in respect of a child who is in the care of a local authority by virtue of a care order shall remain in force so long as the child to whom it relates is in the care of the local authority to whose care he is committed by the care order.
- (4) A contribution order may be enforced in like manner as an affiliation order and the enactments relating to the enforcement of affiliation orders shall, with any necessary modifications, apply accordingly, except that any powers conferred on a magistrates' court by any such enactment shall as respects a contribution order be exercisable, and exercisable only, by a magistrates' court appointed for the commission area where the contributor is for the time being residing.

#### **48 Variation of contribution orders**

- (1) Any powers conferred on a magistrates' court by section 53 of the Magistrates' Courts Act 1952 (which confers power to revoke, vary or revive orders for periodical payments) shall as respects a contribution order be exercisable, and exercisable only, by a magistrates' court appointed for the commission area where the contributor is for the time being residing.

- (2) In proceedings for the variation of a contribution order, the local authority concerned shall specify the weekly amount which, having regard to section 46(2) of this Act, they propose should be the amount of the contribution payable under the order and the court shall not vary the contribution order so as to require the contributor to pay a contribution greater than that proposed by the local authority.

#### **49 Transfer of payments under an affiliation order to local authority**

- (1) Where a child who is in the care of a local authority under section 2 of this Act is illegitimate and an affiliation order for his maintenance is in force, any magistrates' court appointed for the commission area where the putative father is for the time being residing may at any time order the payments under the affiliation order to be paid to the local authority who are from time to time entitled under section 45(2) of this Act to receive contributions in respect of the child.
- (2) Where a child who is in the care of a local authority by virtue of a care order (other than an interim order) is illegitimate and an affiliation order for his maintenance is in force, the court which makes the order may at the same time, and any magistrates' court appointed for the commission area where the putative father is for the time being residing may subsequently at any time, order the payments under the affiliation order to be paid to the local authority who are from time to time entitled under section 45(2) of this Act to receive contributions in respect of the child.
- (3) Applications for orders under subsection (1) or (2) above may be made by the local authority by whom applications for contribution orders may be made.
- (4) Where an order made under subsection (1) or (2) above with respect to an affiliation order is in force—
- (a) any powers conferred on a magistrates' court by the enactments relating to the enforcement of affiliation orders or by section 53 of the Magistrates' Courts Act 1952 (which confers power to revoke, vary or revive orders for periodical payments) shall as respects the affiliation order in question be exercisable, and exercisable only, by a magistrates' court appointed for the commission area where the person liable is for the time being residing;
  - (b) any sums received under the affiliation order shall be applied in like manner as if they were contributions received under a contribution order;
  - (c) if the putative father changes his address he shall forth with give notice thereof to the local authority who were immediately before the change entitled to receive payments under the order and, if he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (5) The making of an order under subsection (1) or (2) above with respect to an affiliation order shall not extend the duration of the affiliation order.
- (6) Where an order is made under this section with respect to an affiliation order, the affiliation order shall not remain in force (except for the purpose of the recovery of arrears)—
- (a) .in the case of an order made by virtue of subsection (1) above, after the child has ceased to be in the care of the local authority under section 2 of this Act, or
  - (b) in the case of an order made by virtue of subsection (2) above, after the child has ceased to be the subject of the care order ; or

- (c) in either case, if the child is allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend, although remaining in the care of the local authority.
- (7) Where an affiliation order would, but for the provisions of subsection (6) above, have continued in force, the mother, or any person entitled to make an application for an order under section 5 of the Affiliation Proceedings Act 1957, may apply to a magistrates' court appointed for the commission area where she or he is for the time being residing for an order that the affiliation order may be revived and that payments thereunder may until the expiration thereof be made to the applicant at such a rate as may be proper, and the court may make such an order accordingly, and where such an order is so made, any power to vary, revoke or again revive the affiliation order or any part thereof, being a power which would but for the provisions of this subsection be vested in the court which originally made the affiliation order, shall be exercisable, and exercisable only, by the court which made the order under this subsection.

## **50 Application by local authority for affiliation order**

- (1) Subject to the provisions of subsection (2) below, where—
- (a) an illegitimate child is in the care of a local authority under section 2 of this Act, or
  - (b) an illegitimate child is in the care of a local authority by virtue of a care order (other than an interim order),
- and no affiliation order has been made in respect' of the child, the local authority whose area includes the place where the mother of the child resides may apply to a magistrates' court appointed for the commission area which includes that place for a summons to be served under section 1 of the Affiliation Proceedings Act 1957.
- (2) No application shall be made under subsection (1) above—
- (a) in a case falling within paragraph (a) of that subsection, after the expiration of three years from the time when the child was received or last received into the care of the local authority or of another local authority from whom the care of the child was taken over by the first mentioned authority;
  - (b) in a case falling within paragraph (b) of that subsection, after the expiration of three years from the coming into force of the care order.
- (3) In any proceedings on an application under subsection (1) above the court shall hear such evidence as the local authority may produce, and shall in all other respects, but subject to the provisions of subsection (4) below, proceed as on an application made by the mother under section 1 of the Affiliation Proceedings Act 1957.
- (4) An order made under section 4 of the Affiliation Proceedings Act 1957 on an application under subsection (1) above shall provide that the payments to be made under the order shall, in lieu of being made to the mother or a person appointed to have the custody of the child, be made to the local authority who are from time to time entitled under section 45 (2) of this Act to receive contributions in respect of the child.
- (5) Where in accordance with section 49(6) of this Act an affiliation order has ceased to be in force, and but for that subsection the order would still be in force, then if the condition specified in paragraph (a) or (b) of subsection (1) above is fulfilled, the local authority whose area includes the place where the putative father of the child resides may make application to a magistrates' court appointed for the commission area which includes that place—

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- (a) for the affiliation order to be revived, and
- (b) for payments thereunder to be made to the local authority who are from time to time entitled under section 45(2) of this Act to receive contributions in respect of the child,

and the court may make an order accordingly.

- (6) Subsections (4) to (7) of section 49 of this Act shall apply in relation to an order made on an application under subsection (1) above or to an affiliation order revived under subsection (5) above as if it were an affiliation order in respect of which an order had been made under subsection (1) or (2) of that section.

## **51 Recovery of arrears of contributions**

- (1) Where during any period (in this section referred to as " the period of default ")—

- (a) a person was liable to make contributions in respect of a child; but
- (b) no order was in force requiring him to make the contributions ;

a magistrates' court having jurisdiction in the place where he is for the time being residing may, on the application of the local authority who would have been entitled to receive payments under such an order, make an order (in this Act referred to as an " arrears order ") requiring him to pay such weekly sum, for such period, as the court, having regard to his means, thinks fit; but the aggregate of the payments required to be made by any person under an arrears order shall not exceed the aggregate that, in the opinion of the court, would have been payable by him under a contribution order in respect of the period of the default or, if it exceeded three months, the last part thereof, less the aggregate of the payments (if any) made by him in respect of his liability during that period or, as the case may be, the last part thereof.

For the purposes of this subsection the last part of the period of default shall be taken to be the last three months thereof and such time, if any, preceding the last three months as is equal to the time during which it continued after the making of the application for the arrears order.

- (2) No application for an arrears order shall be made later than three months after the end of the period of default.
- (3) An arrears order shall be treated as a contribution order, and payments under it as contributions, for the purposes of sections 45(2) and (3), 47(4), 48 and 53 of this Act.
- (4) A person liable to make payments under an arrears order shall, except at a time when he is under a duty to give information of his address under section 12 of this Act, keep the local authority to whom the payments are to be made informed of his address; and if he fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

## **52 Appeals from orders made under Part V**

- (1) An appeal to the Crown Court from an order made by a magistrates' court under this Part of this Act may be brought in the following cases and by the following persons, that is to say—

- (a) in the case of an order requiring a person to contribute in respect of himself or any other person (whether a contribution order or an arrears order), by the person required to contribute;

- (b) in the case of an order requiring all or any part of the payments accruing due under an affiliation order to be paid to some other person, by the person who would but for the order be entitled to the payments.
- (2) Nothing in this section shall be construed as affecting any other right of appeal conferred by this or any other Act.

**53 Contributions received by a local authority which are payable over to another authority**

- (1) Where contributions payable under section 45 of this Act in respect of a child in the care of a local authority are payable, by the person liable to make the contributions, to an authority other than the authority responsible for maintenance, the authority receiving the contributions from that person shall pay them over to the authority responsible for maintenance, subject, however, to such deductions in respect of services rendered by the authority paying the contributions over as may be agreed between the two authorities or as in default of agreement may be determined by the Secretary of State.
- (2) In this section references to the authority responsible for maintenance—
  - (a) in relation to a child who is in the care of a local authority by virtue of a care order, are references to that authority;
  - (b) in relation to a child who is received into the care of a local authority under section 2 of this Act, are references to the local authority into whose care the child has been received, except that where the authority to whom the contributions are payable by the person liable to make them has been notified that under section 2(4) of this Act expenses are being recovered from another authority, the said references shall be construed as references to that other authority.

**54 Supplementary provisions regarding payment of arrears**

- (1) Where by virtue of an order made under section 47, 49, 50 or 51 of this Act any sum is payable to a local authority, the local authority within whose area the person liable under the order is for the time being residing shall be entitled to receive and give a discharge for, and, if necessary, enforce payment of any arrears accrued due under the order, notwithstanding that those arrears may have accrued at a time when he was not resident in the area of that authority.
- (2) In any proceedings under section 47, 49, 50 or 51 of this Act a certificate purporting to be signed by the clerk to an authority for the time being entitled to receive contributions, or by some other officer of the authority duly authorised in that behalf, and stating that any sum due to the authority under an order is overdue and unpaid shall be evidence of the facts stated therein.

**55 Proceedings by or against a person residing in Scotland or Northern Ireland**

- (1) A magistrates' court shall have jurisdiction in proceedings against a person residing in Scotland or Northern Ireland for a contribution order under section 47 of this Act or for an arrears order under section 51 of this Act

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- (2) A magistrates' court by which an order has been made under section 47 or 51 of this Act shall have jurisdiction in proceedings by or against a person residing in Scotland or Northern Ireland for the revocation, revival or variation of that order.
- (3) A magistrates' court shall have jurisdiction in proceedings against a man residing in Scotland or Northern Ireland for an affiliation order under section 50 of this Act if the act of intercourse resulting in the birth of the child or any act of intercourse between the parties which may have resulted therein took place in England or Wales.
- (4) The provisions of this Part of this Act shall, in the cases mentioned in Schedule 2 to this Act, have effect subject to the modifications set out in that Schedule, being modifications consequential on the foregoing provisions of this section.
- (5) Nothing in this section shall be construed as derogating from any jurisdiction exercisable, apart from the provisions of this section, by any court in England or Wales; and it is hereby declared that any jurisdiction conferred by this section is exercisable notwithstanding that any party to the proceedings is not domiciled in England and Wales and any jurisdiction conferred by this section in affiliation proceedings shall be exercisable notwithstanding that the child to whom the proceedings relate was not born in England or Wales.

## PART VI

### VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

#### *Definition of voluntary home*

#### **56 Definition of voluntary home**

In this Act, except where otherwise indicated, the expression "voluntary home" means any home or other institution for the boarding, care and maintenance of poor children, being either—

- (a) a home or other institution supported wholly or partly by voluntary contributions, or
- (b) a home or other institution supported wholly or partly by endowments, not being a school within the meaning of the Education Act 1944,

but does not in either case include a mental nursing home within the meaning of the Nursing Homes Act 1975 or a residential home for mentally disordered persons within the meaning of the Residential Homes Act 1980.

#### *Registration etc. of voluntary homes*

#### **57 Registration of voluntary homes**

- (1) No voluntary home shall be carried on unless it is for the time being registered in a register to be kept for the purposes of this section by the Secretary of State.
- (2) Application for registration under this section shall be made by the persons intending to carry on the home to which the application relates, and shall be made in such manner, and accompanied by such particulars, as the Secretary of State may by regulations prescribe.



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- (3) On an application duly made under subsection (2) above the Secretary of State may either grant or refuse the application, as he thinks fit, but where he refuses the application he shall give the applicant notice in writing of the refusal.
- (4) Where at any time it appears to the Secretary of State that the conduct of any voluntary home is not in accordance with regulations made or directions given under section 60 of this Act or is otherwise unsatisfactory, he may, after giving to the persons carrying on the home not less than twenty-eight days' notice in writing of his proposal to do so, remove the home from the register.
- (5) Any person who carries on a voluntary home in contravention of the provisions of subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.
- (6) Where—
  - (a) a voluntary home is carried on in contravention of the provisions of subsection (1) above, or
  - (b) notice of a proposal to remove a voluntary home from the register is given under subsection (4) above,

the Secretary of State may, notwithstanding that the time for any appeal under section 58 of this Act has not expired or that such an appeal is pending, notify the local authority in whose area the home is situated and require them forthwith to remove from the home and receive into their care under section 2 of this Act all or any of the children for whom accommodation is being provided in the home; and the local authority shall comply with the requirement whether or not the circumstances of the children are such that they fall within paragraphs (a) to (c) of subsection (1) of that section and notwithstanding that any of the children may appear to the local authority to be over the age of seventeen.

For the purposes of carrying out the duty of the local authority under this subsection, any person authorised in that behalf by the local authority may enter any premises in which the home in question is being carried on.

- (7) Where the Secretary of State registers a home under this section or removes a home from the register he shall notify the local authority in whose area the home is situated.
- (8) Any notice under this section required to be given by the Secretary of State to the persons carrying on, or intending to carry on, a voluntary home may be given to those persons by being delivered personally to any one of them, or being sent by post in a registered letter to them or any one of them.

For the purposes of section 7 of the Interpretation Act 1978 (which defines " service by post") a letter enclosing a notice under this section to the persons carrying on a voluntary home or anyone of them shall be deemed to be properly addressed if it is addressed to them or him at the home.

## **58 Appeals**

- (1) Where under section 57 of this Act application for the registration of a voluntary home is refused, or it is proposed to remove a voluntary home from the register, the persons intending to carry on or carrying on the home, as the case may be, may within fourteen days from the giving of the notice under subsection (3) or subsection (4) of that section appeal against the refusal or proposal; and where the appeal is brought

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against a proposal to remove a home from the register, the home shall not be removed therefrom before the determination of the appeal.

- (2) An appeal under this section shall be brought by notice in writing addressed to the Secretary of State requiring him to refer the refusal or proposal to an appeal tribunal constituted in accordance with the provisions of Schedule 3 to this Act.
- (3) On an appeal under this section the appeal tribunal may confirm the refusal or proposal of the Secretary of State or may direct that the home shall be registered or, as the case may be, shall not be removed from the register, and the Secretary of State shall comply with the direction.
- (4) The Lord Chancellor may with the concurrence of the Lord President of the Council make rules as to the practice and procedure to be followed with respect to the constitution of appeal tribunals for the purposes of this section, as to the manner of making appeals to such tribunals, and as to proceedings before such tribunals and matters incidental or consequential on such proceedings; and without prejudice to the generality of the foregoing provisions of this subsection such rules may make provision as to the particulars to be supplied by or to the Secretary of State of matters relevant to the determination of the appeal and as to representation before such tribunals, whether by counsel or solicitor or otherwise.
- (5) The Secretary of State may out of moneys provided by Parliament—
  - (a) pay to members of tribunals constituted for the purposes of this section such fees and allowances as he may with the consent of the Minister for the Civil Service determine;
  - (b) defray the expenses of such tribunals up to such amount as he may with the like consent determine.
- (6) The provisions of the Arbitration Act 1950 shall not apply to any proceedings before a tribunal constituted for the purposes of this section except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section.

## **59 Notification of particulars with respect to voluntary homes**

- (1) It shall be the duty of the person in charge of any voluntary home established after the commencement of this Act to send to the Secretary of State within three months from the establishment of the home such particulars with respect to the home as the Secretary of State may by regulations prescribe.
- (2) It shall be the duty of the person in charge of any voluntary home (whether established before or after the commencement of this Act) to send to the Secretary of State—
  - (a) in the case of a home established before the commencement of this Act, in every year, or
  - (b) in the case of a home established after the commencement of this Act, in every year subsequent to the year in which particulars are sent under subsection (1) above,
 by such date as the Secretary of State may by regulations prescribe, such particulars with respect to the home as may be so prescribed.
- (3) Where the Secretary of State by regulations varies the particulars which are to be sent to him under subsection (1) or (2) above by the person in charge of a voluntary home—

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- (a) the person in charge of such a home shall send to the Secretary of State the prescribed particulars within three months from the date of the making of the regulations;
  - (b) where any such home was established before, but not more than three months before, the making of the regulations, compliance with paragraph (a) above shall be sufficient compliance with the requirement of subsection (1) above to send the prescribed particulars within three months from the establishment of the home;
  - (c) in the year in which the particulars are varied, compliance with paragraph (a) above by the person in charge of any voluntary home shall be sufficient compliance with the requirement of subsection (2) above to send the prescribed particulars before the prescribed date in that year.
- (4) If default is made in sending the prescribed particulars with respect to any voluntary home in accordance with the requirements of this section, the person in charge of the home shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25 and to a further fine not exceeding £1 in respect of each day during which the default continues after conviction.

*Regulations as to voluntary homes and organisations*

**60 Regulations as to conduct of voluntary homes**

- (1) The Secretary of State may make regulations as to the conduct of voluntary homes and for securing the welfare of the children therein, and regulations under this section may in particular—
- (a) impose requirements as to the accommodation and equipment to be provided in homes, authorise the Secretary of State to give directions prohibiting the provision for the children in any home of clothing of any description specified in the directions, and impose requirements as to the medical arrangements to be made for protecting the health of the children in the homes;
  - (b) require the furnishing to the Secretary of State of information as to the facilities provided for the parents and guardians of children in the homes to visit and communicate with the children and authorise the Secretary of State to give directions as to the provision of such facilities;
  - (c) authorise the Secretary of State to give directions limiting the number of children who may at any one time be accommodated in any particular home;
  - (d) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home and empower the Secretary of State to prohibit the appointment of any particular applicant therefor except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed by the regulations ;
  - (e) require notice to be given to the Secretary of State of any change of the person in charge of a home; and
  - (f) impose requirements as to the facilities which are to be given for children to receive a religious upbringing appropriate to the persuasion to which they belong;

and may contain different provisions for different descriptions of cases and as respects different descriptions of homes.

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- (2) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation or any requirement or direction thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

**61 Regulations as to the boarding out of children by voluntary organisations**

- (1) The power conferred by Part III of this Act on the Secretary of State to make regulations as to the boarding out of children by local authorities shall extend also to the boarding out of children by voluntary organisations, subject to the modification that in the provisions of the said Part III conferring that power any reference to the supervision and inspection by a local authority of boarded out children and the premises in which they are boarded out shall, in relation to children boarded out by voluntary organisations, be deemed to be a reference to supervision and inspection either by a local authority or, where it is so provided by or under the regulations, by a voluntary organisation.
- (2) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

**62 Regulations as to arrangements by voluntary organisations for emigration of children**

- (1) The Secretary of State may by regulations control the making and carrying out by voluntary organisations of arrangements for the emigration of children.
- (2) Any regulations made under this section may contain such consequential and incidental provisions as appear to the Secretary of State to be necessary or expedient, including, in particular, provisions for requiring information to be given to the Secretary of State as to the operations or intended operations of the organisation and for enabling the Secretary of State to be satisfied that suitable arrangements have been or will be made for the children's reception and welfare in the country to which they are going.
- (3) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

*Restriction on removal of child from care of voluntary organisation*

**63 Restriction of removal of child from care of voluntary organisation**

- (1) Section 13(1) of this Act shall apply in relation to children who are not in the care of local authorities under section 2 of this Act but who are in voluntary homes or are boarded out, as it applies by virtue of subsection (2) of that section to children in the care of the local authority, except that in the case of a child who is not in the care of a local authority the references in subsection (2) of that section to a local authority shall be construed as references to the voluntary organisation in whose care the child is.

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- (2) For the purposes of this section a child is boarded out if he is boarded out, by the voluntary organisation in whose care he is, with foster parents to live in their home as a member of their family.

*Transfer of parental rights and duties in relation  
to children in care of voluntary organisations*

**64 Transfer of parental rights and duties to voluntary organisation**

- (1) Where it appears to a local authority as respects a child in the care of a voluntary organisation which is an incorporated body—
- (a) that the child is not in the care of any local authority; and
  - (b) that a condition specified in section 3(1) of this Act is satisfied; and
  - (c) that it is necessary in the interests of the welfare of the child for the parental rights and duties to be vested in the organisation,
- the authority may, subject to subsections (5) and (6) below, resolve that there shall vest in the organisation the parental rights and duties with respect to that child.
- (2) While a resolution under this section is in force the parental rights and duties shall vest in the organisation in whose care the child is when the resolution is passed.
- (3) If, immediately before the resolution is passed, the parental rights and duties are vested in the parent in relation to whom the resolution is passed jointly with any other person, then on the passing of the resolution the parental rights and duties shall vest jointly in that other person and the organisation in whose care the child is.
- (4) In determining for the purposes of subsection (1) above whether the condition specified in section 3(1)(b)(i) of this Act is satisfied, if the whereabouts of any parent of the child have remained unknown for twelve months, that parent shall be deemed to have abandoned the child.
- (5) A resolution under subsection (1) above may not be passed by a local authority in respect of any child unless—
- (a) the child is living in the area of the authority either in a voluntary home or with foster parents with whom he has been boarded by the organisation in whose care he is; and
  - (b) that organisation has requested the authority to pass the resolution.
- (6) The parental rights and duties which may vest in an organisation by virtue of this section do not include—
- (a) the right to consent or refuse to consent to the making of an application under section 18 of the Adoption Act 1976 (orders freeing a child for adoption in England and Wales) or section 18 of the Adoption (Scotland) Act 1978 (orders freeing a child for adoption in Scotland) and
  - (b) the right to agree or refuse to agree to the making of an adoption order or an order under section 55 of the Adoption Act 1976 (orders in England and Wales authorising adoption abroad) or section 49 of the Adoption (Scotland) Act 1978 (orders in Scotland authorising adoption abroad),
- and regulations made under section 62 of this Act shall apply to the emigration of a child notwithstanding that the parental rights and duties relating to the child are vested in the voluntary organisation.

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

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- (7) Section 5(2) of this Act shall apply in relation to a resolution under subsection (1) above as if it were a resolution under section 3 of this Act.

**65 Duty of local authority to assume parental rights and duties**

- (1) Where the parental rights and duties with respect to a child are by virtue of a resolution under section 64 of this Act vested in a voluntary organisation, then, if it appears to the local authority for the area in which the child is living that, having regard to the interests of the welfare of the child, it is necessary that the parental rights and duties should no longer be vested in the organisation, the local authority shall resolve that there shall vest in them the parental rights and duties relating to the child.
- (2) The local authority shall within seven days of passing a resolution under subsection (1) above by notice in writing inform the organisation and each parent, guardian or custodian of the child whose whereabouts are known to them that the resolution has been passed.

**66 Effect of resolutions under ss. 64 and 65**

- (1) A resolution under subsection (1) of section 64 of this Act shall cease to have effect on the passing of a resolution under subsection (1) of section 65 of this Act.
- (2) Section 8 of this Act shall have effect in relation to a resolution under subsection (1) of section 64 of this Act as it has effect in relation to a resolution under section 3 of this Act.
- (3) A resolution under subsection (1) of section 65 of this Act shall be deemed to be a resolution under section 3 of this Act except that sections 3(2) to (7), 4(1) and 5(4) of this Act shall not apply.

**67 Appeals by parents etc.**

- (1) Subsections (2) to (7) of section 3 of this Act shall apply to a resolution under section 64 of this Act as they apply to a resolution under the said section 3, with the substitution for the reference in subsection (2) to the vesting of parental rights and duties in the local authority of a reference to the vesting of parental rights and duties in the voluntary organisation.
- (2) An appeal may be made—
- (a) where the complaint relates to a resolution under section 64 of this Act, by a person deprived of parental rights and duties by the resolution, or
  - (b) where the complaint relates to a resolution under section 65 of this Act, by a person who but for that resolution and an earlier resolution under section 64 would have parental rights and duties,
- to a juvenile court having jurisdiction in the area of the authority which passed the resolution, on the ground that—
- (i) there was no ground for the making of the resolution, or
  - (ii) that the resolution should in the interests of the child be determined.
- (3) An appeal shall lie to the High Court against the decision of a juvenile court under this section.
- (4) Section 7 of this Act shall apply in relation to proceedings under this section.

### *Visiting of children in voluntary homes*

#### **68 Visiting of children in voluntary homes**

- (1) It shall be the duty of local authorities from time to time to cause children in voluntary homes in their area, other than community homes, to be visited in the interests of the well-being of the children, and any person authorised in that behalf by a local authority may enter any such voluntary home in the area of the authority for the purpose of visiting the children in the home.
- (2) Any person authorised in that behalf by a local authority may enter any voluntary home outside the area of the authority for the purpose of visiting children in the home who are in the care of the authority under section 2 of this Act or are for the time being committed to the care of the authority by a care order or by a warrant under section 23(1) of the Children and Young Persons Act 1969 (which relates to remands in the care of local authorities).
- (3) Nothing in subsection (1) or (2) above shall apply to a voluntary home which, otherwise than by virtue of section 74 of this Act, is as a whole subject to inspection by or under the authority of a government department.
- (4) A person who proposes to exercise any power of entry or inspection conferred by this section shall if so required produce some duly authenticated document showing his authority to exercise the power.
- (5) Any person who obstructs the exercise of any power of entry or inspection conferred by this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25 or, in the case of a second or subsequent conviction, to a fine not exceeding £50

### *After-care of children formerly in care of voluntary organisations*

#### **69 After-care of children formerly in care of voluntary organisations**

- (1) Where it comes to the knowledge of a local authority that there is in their area any child over compulsory school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer, in the care of a voluntary organisation, then, unless the authority are satisfied that the welfare of the child does not require it, they shall be under a duty so long as he has not attained the age of eighteen to advise and befriend him; but if the local authority are satisfied that the voluntary organisation have the necessary facilities for advising and befriending the child, the local authority may make arrangements whereby, while the arrangements continue in force, he shall be advised and befriended by the voluntary organisation instead of by the local authority.
- (2) Where a child over compulsory school age ceases to be in the care of a voluntary organisation, the organisation shall inform the local authority for the area in which the child proposes to reside.
- (3) Where it comes to the knowledge of a local authority or a voluntary organisation that a child whom they have been advising and befriending in pursuance of this section proposes to transfer or has transferred his residence to the area of another local authority, the first mentioned local authority or, as the case may be, the voluntary organisation shall inform that other local authority.

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

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*Returns of information*

**70 Returns of information by voluntary organizations**

Every voluntary organisation shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to the children who are accommodated and maintained in voluntary homes provided by the organisation or who have been boarded out by the organisation.

**PART VII**

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

*Advisory Council on Child Care*

**71 Advisory Council on Child Care**

- (1) There shall continue to be a council, to be known as the Advisory Council on Child Care, for the purpose of advising the Secretary of State on matters connected with the discharge of his functions in England and Wales under—
  - (a) this Act,
  - (b) the Children and Young Persons Acts 1933 to 1969,
  - (c) the Children Act 1975, and
  - (d) the Adoption Act 1976.
- (2) The Advisory Council on Child Care shall consist of such persons, to be appointed by the Secretary of State, as the Secretary of State may think fit, being persons specially qualified to deal with matters affecting the welfare of children and persons having such other qualifications as the Secretary of State considers requisite. Among the persons appointed under this subsection there shall be persons having experience in local government.
- (3) The Secretary of State shall appoint a person to be chairman, and a person to be the secretary, of the Advisory Council on Child Care.
- (4) It shall be the duty of the Advisory Council on Child Care to advise the Secretary of State on any matter which the Secretary of State may refer to them, being such a matter as is mentioned in subsection (1) above, and they may also, of their own motion, make representations to the Secretary of State as respects any such matter as is mentioned in that subsection.
- (5) The Secretary of State may make out of moneys provided by Parliament such payments to the members of the Advisory Council on Child Care in respect of travelling, subsistence and other expenses as he may with the consent of the Minister for the Civil Service determine.



*Powers and duties of local authorities*

**72 Accommodation of persons over school age in convenient community home**

A local authority may provide accommodation in a community home for any person who is over compulsory school age but has not attained the age of twenty-one if the community home is provided for children who are over compulsory school age and is near the place where that person is employed or seeking employment or receiving education or training.

**73 Provisions as to places of safety etc.**

- (1) Local authorities shall make provision in community homes provided by them or in controlled community homes for the reception and maintenance of—
  - (a) children removed to a place of safety under the Children and Young Persons Act 1933, sections 2(5), 16(3) or 28 of the Children and Young Persons Act 1969, section 34 of the Adoption Act 1976, or section 12 of the Foster Children Act 1980, and
  - (b) children detained by them in pursuance of arrangements under section 29(3) of the Children and Young Persons Act 1969.
- (2) Where under any of the enactments mentioned in subsection (1) above a child is removed to a place of safety, not being a community home provided by a local authority or a controlled community home and not being a hospital vested in the Secretary of State, the expenses of the child's maintenance there shall be recoverable from the local authority within whose area the child was immediately before his removal.

*Inspection and Inquiries*

**74 Inspection of children's homes etc. by persons authorised by Secretary of State**

- (1) Subject to subsection (2) below, the Secretary of State may cause to be inspected from time to time—
  - (a) any community home provided by a local authority under section 34 of this Act;
  - (b) any voluntary home (whether a community home or not);
  - (c) any premises in which a child is living with a person (other than his parent, guardian, relative or custodian) with whom he has been placed by an adoption agency within the meaning of section 1 of the Adoption Act 1976;
  - (d) any other premises at which one or more children in the care of a local authority are being accommodated and maintained;
  - (e) any other premises at which one or more children are being boarded out by a voluntary organisation, and
  - (f) any other premises where a protected child within the meaning of Part III of the Adoption Act 1976 or a foster child within the meaning of the Foster Children Act 1980, or a child to whom any of the provisions of the said Act of 1980 are extended by section 17 or 18 thereof, is being accommodated or maintained.

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- (2) Subsection (1) above does not apply to any home or other premises which is as a whole subject to inspection by or under the authority of a government department.
- (3) An inspection under this section shall be conducted by a person authorised in that behalf by the Secretary of State, but an officer of a local authority shall not be so authorised except with the consent of that authority.
- (4) Any person inspecting a home or other premises under this section may inspect the children therein and make such examination into the state and management of the home or other premises and the treatment of children therein as he thinks fit.

## **75 Powers of entry supplemental to s. 74**

- (1) A person authorised to inspect any home or other premises under section 74 of this Act shall have a right to enter the home or other premises for that purpose and for any other purpose specified in subsection (4) of that section, but shall if so required produce some duly authenticated document showing his authority to exercise the power of entry conferred by this subsection.
- (2) A person who obstructs the exercise by a person authorised as mentioned in subsection (1) above of a power of entry conferred thereby shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5 or, in the case of a second or subsequent conviction, to a fine not exceeding £20.
- (3) A refusal to allow any such person as is mentioned in subsection (1) above to enter any such home or other premises as are mentioned in section 74(1) of this Act shall be deemed, for the purposes of section 40 of the Children and Young Persons Act 1933 (which relates to search warrants), to be a reasonable cause to suspect that a child in the home or other premises is being neglected in a manner likely to cause him unnecessary suffering or injury to health.

## **76 Inquiries**

- (1) The Secretary of State may cause an inquiry to be held into any matter relating to—
  - (a) the functions of the social services committee of a local authority, in so far as those functions relate to children;
  - (b) the functions of an adoption agency within the meaning of section 1 of the Adoption Act 1976;
  - (c) the functions of a voluntary organisation in so far as those functions relate to voluntary homes;
  - (d) a home maintained by the Secretary of State for the accommodation of children who are in the care of local authorities and are in need of the particular facilities and services provided in the home;
  - (e) the detention of a child under section 53 of the Children and Young Persons Act 1933.
- (2) The Secretary of State may, before an inquiry is commenced, direct that it shall be held in private, but where no such direction has been given, the person holding the inquiry may if he thinks fit hold it or any part of it in private.
- (3) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section.

(4) In this section—

" functions " includes powers and duties which a person has otherwise than by virtue of any enactment;

" voluntary home " means a home or other institution for the boarding, care and maintenance of poor children which is supported wholly or partly by voluntary contributions, but does not include a mental nursing home within the meaning of the Nursing Homes Act 1975 or a residential home for mentally disordered persons within the meaning of the Residential Homes Act 1980.

### *Research and training*

## **77 Research**

- (1) The Secretary of State may conduct or assist other persons in conducting research into any matter connected with his functions or the functions of local authorities under—
  - (a) this Act,
  - (b) the Children and Young Persons Acts 1933 to 1969, or
  - (c) the Foster Children Act 1980,or any matter connected with the adoption of children.
- (2) Any local authority may conduct or assist other persons in conducting research into any matter connected with their functions under the enactments mentioned in subsection (1) above or their functions connected with the adoption of children.
- (3) Any expenses incurred by the Secretary of State under this section shall be defrayed out of moneys provided by Parliament.

## **78 Grants for training in child care**

- (1) The Secretary of State with the consent of the Treasury may out of moneys provided by Parliament defray or contribute towards any fees or expenses incurred by persons undergoing training approved by the Secretary of State with a view to, or in the course of, their employment for the purposes of any of the enactments specified in subsection (2) below, or their employment by a voluntary organisation for similar purposes, and may defray or contribute towards the cost of maintenance of persons undergoing such training.
- (2) The enactments referred to in subsection (1) above are—
  - (a) this Act,
  - (b) Parts III and IV of the Children and Young Persons Act 1933.
  - (c) the Children and Young Persons Act 1963, except Part II and section 56,
  - (d) the Children and Young Persons Act 1969,
  - (e) section 7(4) of the Family Law Reform Act 1969, section 44 of the Matrimonial Causes Act 1973 and section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978.
  - (f) the Adoption Act 1976,
  - (g) the Foster Children Act 1980.

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*Returns of information and presentation of reports etc. to Parliament*

**79 Returns of information and presentation of reports etc. to Parliament**

- (1) Every local authority shall, at such times and in such form as the Secretary of State may direct, transmit to the Secretary of State such particulars as he may require—
  - (a) with respect to the performance by the local authority of all or any of their functions under the enactments mentioned in subsection (5) below; and
  - (b) with respect to the children in relation to whom the authority have exercised those functions.
- (2) The clerk of each juvenile court shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to the proceedings of the court.
- (3) The Secretary of State shall in each year lay before Parliament a consolidated and classified abstract of the information transmitted to him under subsection (1) and (2) above and under section 70 of this Act.
- (4) The Secretary of State shall lay before Parliament in 1982 and in every third subsequent year a report with respect to the exercise by local authorities of their functions under the enactments mentioned in subsection (5) below, the provision by voluntary organisations of facilities for children and such other matters relating to children as he thinks fit.
- (5) The enactments referred to in subsections (1) and (4) above are—
  - (a) this Act,
  - (b) Parts III and IV of the Children and Young Persons Act 1933,
  - (c) section 9 of the Mental Health Act 1959 and section 10 of that Act so far as it relates to children and young persons in respect of whom the rights and powers of a parent are vested in a local authority as mentioned in subsection (1)(a) of that section,
  - (d) section 10 of the Mental Health (Scotland) Act 1960 so far as it relates to children and young persons in respect of whom the rights and powers of a parent are vested in a local authority as mentioned in subsection (1)(a) of that section,
  - (e) the Children and Young Persons Act 1963, except Part II and section 56,
  - (f) the Children and Young Persons Act 1969,
  - (g) section 7(4) of the Family Law Reform Act 1969, section 44 of the Matrimonial Causes Act 1973 and section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978,
  - (h) the Adoption Act 1976,
  - (i) the Foster Children Act 1980.

*Financial Provisions*

**80 Expenses of Secretary of State in providing homes offering specialised facilities**

There shall be defrayed out of moneys provided by Parliament any expenses incurred by the Secretary of State in providing, equipping and maintaining homes for the accommodation of children who are in the care of local authorities and are in need

of particular facilities and services which are provided in those homes and are, in the opinion of the Secretary of State, unlikely to be readily available in community homes.

### **81 Grants in respect of secure accommodation**

- (1) The Secretary of State may make to local authorities out of moneys provided by Parliament grants of such amount and subject to such conditions as he may with the consent of the Treasury determine in respect of expenditure incurred by the authorities in providing secure accommodation in community homes other than assisted community homes.
- (2) The Secretary of State may with the consent of the Treasury require the local authority to repay the grant, in whole or in part, if the secure accommodation in respect of which the grant was made (including such accommodation in a controlled community home) ceases to be used as such.
- (3) In this section "secure accommodation" means accommodation provided for the purposes of restricting the liberty of children in a community home.

### **82 Grants in respect of voluntary homes which are assisted community homes**

The Secretary of State may make to voluntary organisations out of moneys provided by Parliament grants of such amounts and subject to such conditions as he may with the consent of the Treasury determine towards expenditure incurred by them in connection with the establishment, maintenance or improvement of voluntary homes which at the time the expenditure was incurred were assisted community homes or were designated as such in a regional plan which was then in operation, including expenses incurred by them in respect of the borrowing of money to defray any such expenditure.

### **83 Administrative expenses of Secretary of State**

Any administrative expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.

#### *Supplementary provisions*

### **84 Prosecution of offences**

A local authority may institute proceedings for any offence under section 9(4) or 13(1) of this Act and any offence under Part VI of this Act.

### **85 Regulations and orders**

- (1) Any power conferred on the Secretary of State by this Act to make an order or regulations, except an order under section 35(1) or 40(2) of this Act, shall be exercisable by statutory instrument.
- (2) Any statutory instrument made in exercise of any power to make regulations or orders conferred by this Act, except an instrument containing only an order under section 43 of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (3) Any directions given by the Secretary of State under any provision of this Act may be revoked or varied by subsequent directions under that provision.
- (4) Any regulations made by the Secretary of State under section 11 or 39 of this Act or any order made by the Secretary of State under this Act may—
  - (a) make different provision for different circumstances;
  - (b) provide for exemptions from any provisions of the regulations or order; and
  - (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations or order.

## **86 Provisions as to copies of orders**

A document purporting to be a copy—

- (a) of an order made by a court under or by virtue of any of the provisions contained in sections 47, 48 and 49 of this Act, or
  - (b) of an affiliation order referred to in an order under section 49 of this Act,
- shall, if it purports to be certified as a true copy by the clerk of the court, be evidence of the order.

## **87 Interpretation**

- (1) In this Act, unless the context otherwise requires—
  - " arrears order " has the meaning assigned to it by section 51 of this Act;
  - " care order " has the meaning assigned to it by section 20 of the Children and Young Persons Act 1969 ;
  - " child " means a person under the age of eighteen years and any person who has attained that age and is the subject of a care order;
  - " commission area " has the same meaning as in section 1 of the Justices of the Peace Act 1979 ;
  - " compulsory school age " has the same meaning as in the Education Act 1944;
  - " contribution order " has the meaning assigned to it by section 47 of this Act;
  - " functions " includes powers and duties;
  - " guardian " means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child;
  - " hospital " has the meaning assigned to it by section 128(1) of the National Health Service Act 1977 ;
  - " instrument of management " means an instrument of management made under section 35 of this Act;
  - " interim order ", in relation to a care order, has the meaning assigned to it by section 20 of the Children and Young Persons Act 1969 ;
  - " local authority " means the council of a county (other than a metropolitan county), of a metropolitan district or of a London borough or the Common Council of the City of London;
  - " local education authority " means a local education authority for the purposes of the Education Act 1944 ;
  - " parent ", in relation to a child who is illegitimate, means his mother, to the exclusion of his father ;

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" planning area " has the meaning assigned to it by section 31(1) of this Act;  
" regional plan " has the meaning assigned to it by section 32(1) of this Act;  
" relative ", in relation to a child, means a grand-parent, brother, sister, uncle or aunt, whether of the full blood, of the half blood, or by affinity, and includes, where the child is illegitimate, the father of the child and any person who would be a relative of the child within the meaning of this definition if the child were the legitimate child of his mother and father;  
" the relevant authorities ", in relation to a planning area, has the meaning assigned to it by section 31(3) of this Act;  
" supervision requirement" has the same meaning as in the Social Work (Scotland) Act 1968;  
" trust deed." has the meaning assigned to it by section 36 of this Act;  
" voluntary home " has the meaning assigned to it by section 56 of this Act;  
"voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

- (2) Any reference in this Act to an enactment of the Parliament of Northern Ireland shall be construed as a reference to that enactment as amended by any Act of that Parliament or by any Measure of the Northern Ireland Assembly, whether passed before or after this Act, and to any enactment of that Parliament or Assembly for 'the time being in force which re-enacts the said enactment with or without modifications.

## **88 Application to the Isles of Scilly**

This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.

## **89 Transitional provisions, consequential amendments and repeals**

- (1) This Act shall have effect subject to the transitional provisions and savings set out in Schedule 4 to this Act.
- (2) The enactments specified in Schedule 5 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.
- (3) The enactments specified in Schedule 6 to this Act are repealed to the extent specified in the third column of that Schedule.
- (4) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section 16 or 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

## **90 Commencement**

- (1) Subject to the provisions of subsections (2), (3) and (4) below, this Act shall come into force on such date as the Secretary of State may by order appoint.
- (2) If, on the date appointed under subsection (1) above, the provision of section 58 of the Children Act 1975 which provides for the insertion into the Children Act 1948 of section 4B (guardians ad litem and reports in care proceedings) is not in force, then section 7 of this Act (and the repeal by this Act of section 58 of the Act of 1975 and

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section 4B of the Act of 1948) shall not come into force until the date appointed under section 108(2) of the Act of 1975 for the coming into force of that provision.

- (3) If, on the date appointed under subsection (1) above, paragraph 71(b) of Schedule 3 to the Children Act 1975 is not in force, then section 20 of this Act (and the repeal by this Act of the said paragraph 71 and section 27(4) of the Children and Young Persons Act 1969) shall not come into force until the date appointed under section 108(2) of the Act of 1975 for the coming into force of that paragraph; and, until that paragraph is in force, section 20 of this Act shall have effect as if in subsection (1) of that section for the words from " to review the case " to the end of the section there were substituted the words—

“who have at any time had a child in their care throughout the preceding six months and have not during that period held a review of his case in pursuance of this section to review his case as soon as is practicable after the expiration of that period and, if a care order is in force with respect to him, to consider in the course of the review whether to make an application for the discharge of the order”.

- (4) If, on the date appointed under subsection (1) above, sections 60 to 63 of the Children Act 1975 (which relate to the transfer of parental rights and duties to voluntary organisations) are not in force, then sections 64 to 67 of this Act (and the repeal by this Act of the said sections 60 to 63) shall not come into force until the date appointed under section 108(2) of the Act of 1975 for the coming into force of those sections.

## 91 Short title and extent

- (1) This Act may be cited as the Child Care Act 1980.
- (2) Except for the following provisions, that is to say—
- (a) section 2(4) and (5),
  - (b) section 16(1), (4) and (5).
  - (c) section 89(2) and paragraphs 2 to 4, 9 to 11, 13, 15, 16, 21 and 22 of Schedule 5,
  - (d) section 89(3) and Schedule 6 so far as they relate to—
    - the Adoption of Children Act 1949,
    - the Maintenance Orders Act 1950,
    - paragraph 38 of Schedule 3 to the Children and Young Persons Act 1963,
    - the entry relating to the Children Act 1948 in Schedule 3 to the Criminal Justice Act 1967,
    - the Social Work (Scotland) Act 1968, and section 32(1) of the Children and Young Persons Act 1969,
  - (e) section 90(1), and
  - (f) this section,
- this Act does not extend to Scotland.
- (3) Except for the following provisions, that is to say—
- (a) section 16,
  - (b) section 89(2) and paragraphs 2 and 3 of Schedule 5,
  - (c) section 89(3) and Schedule 6 so far as they relate to—
    - the Maintenance Orders Act 1950, and



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- section 32(1) of the Children and Young Persons Act 1969,  
(d) section 90(1), and  
(e) this section,  
this Act does not extend to Northern Ireland.
- (4) Section 16(1) and (5) of this Act and this section extend to the Channel Islands.
- (5) It is hereby declared that the provisions of section 87 of this Act extend to each of the countries aforesaid so far as appropriate for the purposes of any other provision of this Act which extends to the country in question.

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## SCHEDULES

### SCHEDULE 1

Section 31(4).

#### CHILDREN'S REGIONAL PLANNING COMMITTEES

- 1 (1) Subject to the following provisions of this Schedule, the children's regional planning committee for a planning area (in this Schedule referred to as " the committee ") shall consist of such number of persons selected and appointed in such manner and holding office on such terms as the relevant authorities may from time to time approve.
- (2) No person who is disqualified by virtue of section 80 of the Local Government Act 1972 from being a member of any local authority which is one of the relevant authorities for a planning area may be a member of the committee for that area.
- 2 (1) Subject to sub-paragraph (2) of this paragraph, the relevant authorities for a planning area shall so exercise their powers under paragraph 1(1) of this Schedule as to secure that each authority nominates as a member of the committee for the area at least one person who is not so nominated by any other of the relevant authorities.
- (2) If the Secretary of State considers that owing to special circumstances the requirement imposed by sub-paragraph (1) of this paragraph should be dispensed with in the case of a particular authority he may direct accordingly.
- (3) The members of the committee for a planning area who are nominated by the relevant authorities are in the following provisions of this Schedule referred to as " the nominated members ".
- 3 (1) Without prejudice to any power of co-option conferred on the committee for a planning area under paragraph 1(1) of this Schedule, but subject to paragraph 4 of this Schedule, the nominated members of the committee may co-opt other persons to serve as members of the committee, either generally or in relation only to such matters as may be specified by the nominated members.
- (2) Where any persons are co-opted to serve as members of the committee for a planning area in relation only to such matters as are specified by the nominated members then, subject to any directions given by the relevant authorities, the extent to which those persons shall be entitled to attend, speak and vote at meetings of the committee shall be such as may be determined by the nominated members.
- 4 The relevant authorities for a planning area shall so exercise their powers under paragraph 1(1) of this Schedule, and the nominated members of the committee for a planning area shall so limit any exercise of their power under paragraph 3 of this Schedule, as to secure that at all times a majority of the members of the committee for the planning area are members of the relevant authorities.
- 5 Subject to any directions given by the relevant authorities, the procedure and quorum of the committee for a planning area shall be such as may be determined by the nominated members.

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- 6 Section 103 of the Local Government Act 1972 (which relates to the expenses of joint committees of local authorities) shall apply to the committee for a planning area as it applies to such a joint committee as is mentioned in that section, but as if—
- (a) for references to the local authorities by whom the committee is appointed there were substituted references to the relevant authorities; and
  - (b) for paragraphs (a) and (b) of that section there were substituted the words " by the Secretary of State ";
- and Part VIII of the Local Government Act 1972 (which relates to accounts and audit) shall apply to the accounts of the committee for a planning area as it applies to the accounts of such a joint committee as is mentioned in section 154(1) of that Act.

## SCHEDULE 2

Section 55(4).

### MODIFICATION OF PROVISIONS OF PART V OF THIS ACT IN RELATION TO PERSONS RESIDING IN SCOTLAND OR NORTHERN IRELAND

- 1 Where the person liable to make contributions in respect of a child is for the time being residing in Scotland or Northern Ireland, section 45(2) of this Act shall have effect as if for the reference to the local authority for the area in which that person is for the time being residing there were substituted a reference to the local authority having the care of the child.
- 2 (1) Where the person to be charged under a contribution order resides in Scotland or Northern Ireland, section 47(1) of this Act shall have effect as if for the reference to a magistrates' court appointed for the commission area where that person is for the time being residing there were substituted a reference to a magistrates' court having jurisdiction within the area of the authority entitled to receive the contributions.
- (2) Where the person on whom a contribution order has been made is for the time being residing in Scotland or Northern Ireland, section 47(4) of this Act shall have effect as if the words from " except that " to the end of the subsection were omitted.
- 3 Where the person on whom a contribution order or arrears order has been made is for the time being residing in Scotland or Northern Ireland, section 48(1) of this Act shall not apply.
- 4 (1) Where the putative father of an illegitimate child resides in Scotland or Northern Ireland, subsections (1) and (2) of section 49 of this Act shall have effect as if for the reference in each subsection to the commission area where the putative father is for the time being residing there were substituted a reference to the place where the mother of the child is for the time being residing.
- (2) Where the person liable under an affiliation order in respect of which an order under section 49(1) or (2) of this Act is in force is for the time being residing in Scotland or Northern Ireland, paragraph (a) of section 49(4) of this Act shall not apply.
- 5 Where the putative father of a child in respect of whom an order has been made under section 49 of this Act is for the time being residing in Scotland or Northern Ireland, section 50(5) of this Act shall have effect as if for references to the local authority whose area includes the place where the putative father of the child resides, and to the magistrates' court appointed for the commission area which includes that place, there were substituted references to the local authority who, if

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the affiliation order were still in force, would be entitled to payments thereunder, and to a magistrates' court having jurisdiction within the area of that authority.

6 Where the person who was liable to make contributions in respect of a child resides in Scotland or Northern Ireland, section 51(1) of this Act shall have effect as if for the reference to the magistrates' court therein mentioned there were substituted a reference to a magistrates' court having jurisdiction in the area or part of the area of the local authority which is applying for an arrears order.

7 Where the person liable to make payments under an order made under section 47, 49, 50 or 51 of this Act is for the time being residing in Scotland or Northern Ireland, section 54(1) of this Act shall have effect as if for the reference to the local authority within whose area the person liable under the order is for the time being residing there were substituted a reference to the local authority to whom sums are payable under the order and as if for the words " when he was not resident in the area of that authority " there were substituted the words " when that authority were not entitled to sums payable under the order ".

### SCHEDULE 3

Section 58(2).

#### *Constitution of Appeal Tribunals*

1 For the purpose of enabling appeal tribunals to be constituted as occasion may require, there shall be appointed two panels, that is to say—

(a) a panel (hereinafter referred to as the " legal panel") appointed by the Lord Chancellor, of persons who will be available to act when required as chairman of any such tribunal; and

(b) a panel (hereinafter referred to as the "welfare panel") appointed by the Lord President of the Council, of persons who will be available to act when required as members of any such tribunal.

2 (1) No person shall be qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable, and no person shall be qualified to be appointed to the welfare panel unless he has had such experience in children's welfare work as the Lord President of the Council considers suitable.

(2) An officer of any government department shall be disqualified from being appointed to either of the said panels.

3 Any person appointed to be a member of either of the said panels shall hold office as such subject to such conditions as to the period of his membership and otherwise as may be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.

4 Where any appeal is required to be determined by a tribunal constituted in accordance with this Schedule, the tribunal shall consist of a chairman being a member of the legal panel and two other members being members of the welfare panel, and the chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively.

## SCHEDULE 4

Section 89.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### *Children in care under Children Act 1948*

- 1 Any reference in this Act to a child in the care of a local authority under section 2 of this Act shall be construed as including a reference to a child received into the care of the authority under section 1 of the Children Act 1948.

#### *Children in care by virtue of an order which is deemed to be a care order*

- 2 Any reference in this Act to a care order committing a child to the care of a local authority shall be construed as including an order made under the Children and Young Persons Act 1933 which is deemed, by virtue of Schedule 4 to the Children and Young Persons Act 1969, to be a care order committing the child to the care of that authority.
- 3 Sections 23 and 29 of this Act shall apply in relation to a child who is or has been in the care of a local authority by virtue of an order made under the Children and Young Persons Act 1933 which is deemed by virtue of paragraph 8 of Schedule 4 to the Children and Young Persons Act 1969 to be a care order as they apply in relation to a child who is or has been in the care of a local authority under section 2 of this Act.

#### *Periods of time*

- 4 Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

#### *Custodians*

- 5 If at the commencement of this Act section 33 of the Children Act 1975 (which relates to custodianship orders) is not in force, then, until that section is in force.—
- (a) section 3 of this Act shall have effect as if in subsections (1) and (10) the words " or custodian " were omitted; and
  - (b) section 5 of this Act shall have effect as if in subsection (1)(a) for the words " parent, guardian or custodian " there were substituted the words " parent or guardian ".

#### *Children in care by virtue of order under Matrimonial Proceedings (Magistrates' Courts) Act 1960*

- 6 Sections 23 and 29 of this Act shall apply in relation to a child who is or has been in the care of a local authority by virtue of an order made under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 as they apply in relation to a child who is or has been in the care of a local authority under section 2 of this Act.

#### *References to section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978*

- 7 If at the commencement of this Act section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978 (which relates to supervision orders) is not in force

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then, until that section is in force, the references in sections 78 and 79 of this Act to that section shall be construed as references to section 2(1)(f) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960.

*References to provisions of Adoption Act 1976 and Adoption (Scotland) Act 1978*

- 8 If at the commencement of this Act any provision of the Adoption Act 1976 or the Adoption (Scotland) Act 1978 referred to in this Act is not in force, then any reference in this Act to that provision shall, until that provision is in force, be construed as a reference to the enactment for which that provision, when it is in force, will be substituted.

*Saving of amendments*

- 9 Notwithstanding the repeal by this Act of section 60 of and Schedule 3 to the Children Act 1948, the amendments made by that Schedule to the Children and Young Persons Act 1933 shall continue to have the same effect as they had immediately before the commencement of this Act.

SCHEDULE 5

Section 89.

CONSEQUENTIAL AMENDMENTS

*Children and Young Persons Act 1933 (c.12)*

- 1 In section 96 of the Children and Young Persons Act 1933 after subsection (1) there shall be inserted the following subsection—
- “(1A) The local authorities for the purposes of Parts III and IV of this Act shall be the councils of counties (other than metropolitan counties), of metropolitan districts and of London boroughs and the Common Council of the City of London.”.

*Maintenance Orders Act 1950 (c.37)*

- 2 In section 15(1) of the Maintenance Orders Act 1950 after the words " Children Act 1975 " there shall be inserted the words " or section 55 of the Child Care Act 1980 ".
- 3 In section 16(2)(a) of the said Act of 1950, in sub-paragraph (iv) for the words " section 26 of the Children Act 1948 " there shall be substituted the words " section 50 of the Child Care Act 1980 " and in sub-paragraph (v) for the words " section 87 of the Children and Young Persons Act 1933 " there shall be substituted the words " section 47 of the Child Care Act 1980 ".

*The Affiliation Orders Act 1952 (c.41)*

- 4 In section 3 of the Affiliation Orders Act 1952—
- (a) in subsection (3)(a)(ii) for the words " section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 ";
  - (b) in subsection (6) for the words "section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 ".

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*The Magistrates' Courts Act 1952 (c.55)*

- 5 In section 56(1) of the Magistrates' Courts Act 1952 after paragraph (m) there shall be added the following paragraph—  
“(n) section 47, 49 or 50 of the Child Care Act 1980 ;”.

*Affiliation Proceedings Act 1957 (c.55)*

- 6 In section 5(2) of the Affiliation Proceedings Act 1957—  
(a) for paragraph (a) there shall be substituted the following paragraph—  
“(a) section 49 of the Child Care Act 1980 (which provides that, where an illegitimate child is in the care of a local authority, the authority entitled to receive contributions in respect of the child under section 45(2) of that Act may be given the benefit of payments under an affiliation order in respect of the child);”;  
(b) paragraph (b) shall be omitted;  
(c) in paragraph (d) for the words " section 26 of the Children Act 1948" there shall be substituted the words " section 50 of the Child Care Act 1980 ".
- 7 In section 6A(3) of the said Act of 1957 for the words " section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 ".
- 8 In section 7 of the said Act of 1957—  
(a) in subsection (4)(a) for the words " section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 " ;  
(b) in subsection (6) for the words " section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 " .

*Children Act 1958 (c. 65)*

- 9 In section 2(3)(b) of the Children Act 1958 for the words " Part V of the Children and Young Persons Act 1933 " there shall be substituted the words " Part VI of the Child Care Act 1980 "
- 10 In section 6(1)(d) of the said Act of 1958 after the words " Children Act 1948 " there shall be inserted the words " or under section 3 of the Child Care Act 1980 " .
- 11 In section 7(4) of the said Act of 1958 for the words " section 1 of the Children Act 1948" there shall be substituted the words " section 2 of the Child Care Act 1980 " and for the words " the said section 1 " there shall be substituted the words " the said section 2 " .

*Mental Health Act 1959 (c.72)*

- 12 In section 9 of the Mental Health Act 1959—  
(a) in subsection (1) for the words " section 38 of the Children and Young Persons Act 1969 " there shall be substituted the words " section 34 of the Child Care Act 1980 " and for the words " Part II of the Children Act 1948 " there shall be substituted the words " Part III of that Act " ;  
(b) in subsection (3) for the words "section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 " ;  
(c) in subsection (4) for the words " Children Act 1948 " there shall be substituted the words " Child Care Act 1980 " .

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- 13 In section 10(1)(a) of the said Act of 1959—
- (a) for sub-paragraph (i) there shall be substituted the following sub-paragraph—
    - “(i) section 10 of the Child Care Act 1980 (which relates to the powers and duties of local authorities with respect to persons committed to their care under the Children and Young Persons Act 1969);”;
  - (b) for sub-paragraph (iii) there shall be substituted the following sub-paragraph—
    - “(iii) section 3 of the Child Care Act 1980 (which relates to the assumption by a local authority of parental rights and duties in relation to a child in their care);”.
- 14 In section 50 of the said Act of 1959—
- (a) for paragraph (a) there shall be substituted the following paragraph—
    - “(a) section 10 of the Child Care Act 1980 (which relates to the powers and duties of local authorities with respect to persons committed to their care under the Children and Young Persons Act 1969);”;
  - (b) for paragraph (c) there shall be substituted the following paragraph—
    - “(c) section 3 of the Child Care Act 1980 (which relates to the assumption by a local authority of parental rights and duties in relation to a child in their care);”;
  - (c) for the words " subsection (2) of the said section 3 " there shall be substituted the words " subsection (1) of the said section 3 ".

*Mental Health (Scotland) Act 1960 (c. 61)*

- 15 In section 10(1)(a) of the Mental Health (Scotland) Act 1960—
- (a) in sub-paragraph (ii) for the words " section 24 of the Children and Young Persons Act 1969 " there shall be substituted the words " section 10 of the Child Care Act 1980 ; "
  - (b) for sub-paragraph (iii) there shall be substituted the following sub-paragraph—
    - “(iii) section 3 of the Child Care Act 1980 (which relates to the assumption by a local authority of parental rights and duties in relation to a child in their care);”.
- 16 In section 46 of the said Act of 1960—
- (a) in paragraph (b) for the words " section 24 of the Children and Young Persons Act 1969 " there shall be substituted the words " section 10 of the Child Care Act 1980 ";
  - (b) in paragraph (d) for the words " Children Act 1948 " there shall be substituted the words " Child Care Act 1980 ";
  - (c) for the words " subsection (2) of the said section 3 " there shall be substituted the words " subsection (1) of the said section 3 ".



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*London Government Act 1963 (c. 33)*

- 17 In section 47(4) of the London Government Act 1963 for the words " Children Act 1948 or the Children and Young Persons Act 1933 " there shall be substituted the words " Child Care Act 1980 ".

*Children and Young Persons Act 1963 (c.37)*

- 18 In section 63 of the Children and Young Persons Act 1963 after subsection (1) there shall be inserted the following subsection—

“(1A) The local authorities for the purposes of Parts I and III of this Act shall be the councils of counties (other than metropolitan counties), of metropolitan districts and of London boroughs and the Common Council of the City of London.”.

*Health Services and Public Health Act 1968 (c.46)*

- 19 In section 64(3)(a) of the Health Services and Public Health Act 1968 there shall be added at the end the following paragraph—

“(xix) the Child Care Act 1980 except so far as it relates to any voluntary home designated as mentioned in section 35(1) of that Act as a controlled or assisted community home”.

- 20 In section 65(3)(b) of the said Act of 1968 there shall be added at the end the following paragraph—

“(xx) the Child Care Act 1980”.

*Social Work (Scotland) Act 1968 (c.49)*

- 21 In section 21(3) of the Social Work (Scotland) Act 1968 for the words " section 13 of the Children Act 1948 " there shall be substituted the words " section 21 of the Child Care Act 1980 ".

- 22 In section 86(3) of the said Act of 1968 for the words " Children Act 1948, the Children and Young Persons Act 1933 " there shall be substituted the words " Child Care Act 1980 ".

*Family Law Reform Act 1969 (c.46)*

- 23 In section 7 of the Family Law Reform Act 1969—

- (a) in subsection (2) for the words " Part II of the Children Act 1948 " there shall be substituted the words " Part III of the Child Care Act 1980 " and for the words " section 1 " there shall be inserted the words " section 2 "; and
- (b) in subsection (3) there shall be added at the end the words " and as if, in relation to a ward of court, the reference in subsection (5)(b) to sections 24 and 28 of the Child Care Act 1980 included a reference to section 23 of that Act (guarantee of apprenticeship deeds) and section 29 of that Act (visiting and assistance of persons formerly in care). "

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*Children and Young Persons Act 1969 (c.54)*

- 24 In section 22(4) of the Children and Young Persons Act 1969 for the words " section 13(2) of the Children Act 1948 " there shall be substituted the words " section 21(2) of the Child Care Act 1980 ".
- 25 In section 26(3) of the said Act of 1969 the words " and in section 27(4) the words from ' and if' onwards " shall be omitted and for the words " section 13(2) of the Children Act 1948 " there shall be substituted the words " section 21(2) of the Child Care Act 1980 ".
- 26 In paragraph 11 of Schedule 5 to the said Act of 1969 for the words from " for the words " to the end of the paragraph there shall be substituted the words " for the words from ' section fifty-six' to ' Schedule to' there shall be substituted the words ' section fifty-six of. "

*Administration of Justice Act 1970 (c.31)*

- 27 In Schedule 1 to the Administration of Justice Act 1970 at the end there shall be added the following paragraph—  
 “Proceedings on appeal under section 6 of the Child Care Act 1980”.
- 28 In Schedule 8 to the said Act of 1970—
- (a) in paragraph 5 for the words " section 26 of the Children Act 1948" there shall be substituted the words " section 50 of the Child Care Act 1980 ";
  - (b) in paragraph 6 for the words " section 87 of the Children and Young Persons Act 1933, section 30 of the Children and Young Persons Act 1963 " there shall be substituted the words " section 47 or 51 of the Child Care Act 1980 ".

*Local Authority Social Services Act 1970 (c.42)*

- 29 In Schedule 1 to the Local Authority Social Services Act 1970 there shall be added at the end the following entry—

“Child Care Act 1980 (c.5)

Promotion of welfare of children ; provision for orphans, deserted children, children suffering from mental disorder etc.; assumption by local authority of parental rights ; children in care ; financing of children's maintenance and education etc; assistance of persons formerly in care ; accommodation for children in care; registration of voluntary children's homes and use of voluntary organisations; research into matters connected with functions under enactments relating to children and young persons.”.
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*Guardianship of Minors Act 1971 (c.3)*

30 In section 5(2) of the Guardianship of Minors Act 1971 for the words " section 2 of the Children Act 1948 " there shall be substituted the words " section 3 of the Child Care Act 1980 ".

31 In section 14A(4) of the said Act of 1971 for the words "Part II of the Children Act 1948 " there shall be substituted the words " Part III of the Child Care Act 1980 ".

*Attachment of Earnings Act 1971 (c.32)*

32 In Schedule 1 to the Attachment of Earnings Act 1971 —

- (a) in paragraph 6 for the words " section 26 of the Children Act 1948 " there shall be substituted the words " section 50 of the Child Care Act 1980 "; and
- (b) in paragraph 7 for the words " section 87 of the Children and young Persons Act 1933, section 30 of the Children and Young Persons Act 1963 " there shall be substituted the words " section 47 or 51 of the Child Care Act 1980 ".

*Tribunals and Inquiries Act 1971 (c.62)*

33 In paragraph 4 of Schedule 1 to the Tribunals and Inquiries Act 1971 for the words " section 30 of, and Part I of Schedule 1 to, the Children Act 1948 " there shall be substituted the words " section 58 of, and Schedule 3 to, the Child Care Act 1980 ".

*Matrimonial Causes Act 1973 (c.18)*

34 In section 43 of the Matrimonial Causes Act 1973—

- (a) in subsection (1) for the words "Part II of the Children Act 1948 " there shall be substituted the words " Part III of the Child Care Act 1980 " and for the words " section 1 of that Act" there shall be substituted the words " section 2 of that Act "; and
- (b) for subsection (5) there shall be substituted the following subsection—

“(5) In the application of Part III of the Child Care Act 1980 by virtue of this section—

- (a) the exercise by the local authority of their powers under sections 18, 21 and 22 of that Act (which among other things relate to the accommodation and welfare of a child in the care of a local authority) shall be subject to any directions given by the court; and
- (b) section 24 of that Act (which relates to arrangements for the emigration of such a child) and section 28 of that Act (which relates to the aftercare of a child in the care of a local authority under section 2 of that Act) shall not apply.”.

*Guardianship Act 1973 (c.29)*

35 In section 4 of the Guardianship Act 1973 for subsection (4) there shall be substituted the following subsection—

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“(4) On the making of an order under section 2(2)(b) above with respect to a minor, Parts III and V of the Child Care Act 1980 (which relate to the treatment of children in the care of a local authority and to contributions towards their maintenance) shall apply as if the minor had been received by the local authority into their care under section 2 of that Act except that—

- (a) the exercise by the local authority of their powers under sections 18 and 21 of that Act shall, where the order is made by the High Court, be subject to any directions given by the court;
- (b) section 24 of that Act (which relates to arrangements for emigration) shall not apply ;
- (c) section 28 of that Act (which relates to the after-care of a child in the care of a local authority under section 2 of that Act) shall not apply ; and
- (d) section 45(1) of that Act so far as it requires a child's father or mother to make contributions in respect of him shall not apply, but so that references to the local authority who are entitled to receive contributions shall be construed as if section 45(1) did so apply.”.

*Legal Aid Act 1974 (c.4)*

36 In Schedule 1 to the Legal Aid Act 1974 for paragraph 3(g) there shall be substituted the following sub-paragraph—

“(g) proceedings under section 3, 5 or 67(2) of the Child Care Act 1980”.

*Children Act 1975 (c.72)*

37 In section 103(1)(a) of the Children Act 1975 for paragraph (iii) there shall be substituted the following paragraph—

“(iii) section 7 of the Child Care Act 1980”.

*Adoption Act 1976 (c.36)*

38 In section 31(3) of the Adoption Act 1976 for the words " section 86 of the Children and Young Persons Act 1933 " there shall be substituted the words " section 45 of the Child Care Act 1980 ".

39 In section 34(3) of the said Act of 1976 for the words " section 1 of the Children Act 1948 " there shall be substituted the words " section 2 of the Child Care Act 1980 ".

*Domestic Proceedings and Magistrates' Courts Act 1978 (c.22)*

40 In section 8(7) of the Domestic Proceedings and Magistrates' Courts Act 1978 for the words " Part II of the Children Act 1948 " there shall be substituted the words " Part III of the Child Care Act 1980 ".

41 In section 9(4) of the said Act of 1978 for the words "Part II of the Children Act 1948" there shall be substituted the words " Part III of the Child Care Act 1980 ".

42 In section 10 of the said Act of 1978—

- (a) for subsection (4) there shall be substituted the following subsection—

“(4) On the making of an order under this section—

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- (a) Part III of the Child Care Act 1980 (which relates to the treatment of children in the care of a local authority), except section 24 (which relates to arrangements for the emigration of such children) and section 28 (which relates to the after-care of children who have been in the care of a local authority under section 2 of that Act); and
- (b) for the purposes only of contributions by the child himself at a time when he has attained the age of 16 and is engaged in remunerative full-time work, Part V of that Act (which relates to contributions towards the maintenance of children in the care of a local authority),
- shall apply as if the child had been received by the local authority into their care under section 2 of that Act”;
- (b) in subsection (8) for the words " Part II of the Children Act 1948 " there shall be substituted the words " Part III of the Child Care Act 1980 ".

SCHEDULE 6

Section 89.

REPEALS

Chapter	Short Title	Extent of Repeal
1933 c. 12.	The Children and Young Persons Act 1933.	Sections 86 to 89. Sections 92 and 93. In section 102(1), paragraphs (c) and (d). In section 106(2), paragraph (c). In section 107(1) the definition of " commission area ".
1948 c. 43.	The Children Act 1948.	The whole Act.
1949 c. 98.	The Adoption of Children Act 1949.	In section 13(2) the words "subsection (1) of section fifty-nine of the Children Act 1948 and ".
1950 c. 37.	The Maintenance Orders Act 1950.	In section 3(1) the words " section twenty-six of the Children Act 1948 ". In section 4(1), paragraph (a) and in section 4(2) the words " the said section eighty-seven." Section 14. Schedule 1.

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Chapter	Short Title	Extent of Repeal
1952 c. 55.	The Magistrates' Courts Act 1952.	In section 56(1), paragraphs (b) and (d).
1958 c. 55.	The Local Government Act 1958.	In Schedule 8, paragraph 2.
1958 c. 65.	The Children Act 1958.	In Schedule 2, the entry relating to section 38 of the Children Act 1948.
1963 c. 37.	The Children and Young Persons Act 1963.	Sections 1, 30, 45, 46, 47; 49, 55 and 58.  In Schedule 3, paragraphs 38 and 40.
1967 c. 80.	Criminal Justice Act 1967.	In Part I of Schedule 3, the entries relating to section 88(2)(c) of the Children and Young Persons Act 1933, section 10(4) of the Children Act 1948 and section 30(5) of the Children and Young Persons Act 1963.
1968 c. 46.	The Health Services and Public Health Act 1968.	In section 64(3)(a), sub-paragraph (iv) and in sub-paragraph (xiv) the words from "except so far as " to the end of the sub-paragraph.  In section 65(3)(b), sub-paragraph (iv).
1968 c. 49.	The Social Work (Scotland) Act 1968.	In Schedule 8, paragraphs 17 and 19.
1969 c. 54.	The Children and Young Persons Act 1969.	Sections 24 and 27.  In section 32(1), paragraphs (a) and (c), the words " the local authority or" in the first place where those words occur, the words " the local authority or the managers of the home or ", and the words " or managers " in both places where those words occur.  Sections 35 to 45.  Sections 47 to 50.  Sections 58 and 59.  Sections 62 to 64A.

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Chapter	Short Title	Extent of Repeal
1970 c. 31.	The Administration of Justice Act 1970.	Section 65(1). In section 69(1) the words "39 or 43(5)" and "47". In section 70(1) the definition of "instrument of management", "planning area", "regional plan", "the relevant authorities", "trust deed", "voluntary home" and "voluntary organisation". Schedule 2. In Schedule 5, paragraphs 8 to 10, 14 to 17, 19 to 22, 50 to 52 and 73.
1970 c. 42.	The Local Authority Social Services Act 1970.	In Schedule 1, the words "Proceedings on appeal under section 4A of the Children Act 1948".
1972 c 70.	The Local Government Act 1972.	In Schedule 1, the entries relating to the Children Act 1948 and Part in of the Children and Young Persons Act 1963, in the entry relating to Part I of the said Act of 1963 the words "Promotion of welfare of children" and "recovery of contributions in respect of child" and in the entry relating to the Children and Young Persons Act 1969 the words "accommodation for children in care". In Schedule 2, paragraphs 5 and 11.
1973 c. 18.	The Matrimonial Causes Act 1973.	In Schedule 23, paragraph 3.
1974 c. 4.	The Legal Aid Act 1974.	In section 43, subsection (8). In Schedule 2, paragraph 9.
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In Schedule 1, in paragraph 3(c) the words "section 2 or 4 of the Children Act 1948." In Schedule 2, paragraph 9.

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Chapter	Short Title	Extent of Repeal
<a href="#">1975 c. 37.</a>	The Nursing Homes Act 1975.	In Schedule 1, paragraph 5.
<a href="#">1975 c. 72.</a>	The Children Act 1975.	Sections 56 to 63. Sections 67, 71 and 98. In Schedule 3, paragraphs 4 to 6, 42, 71, 72 and 73(1)(a).
<a href="#">1976 c. 36.</a>	The Adoption Act 1976.	In Schedule 3, paragraphs 1, 2, 3.12.13 and 20.
<a href="#">1977 c. 45.</a>	The Criminal Law Act 1977.	In Schedule 6 the entry relating to the Children Act 1948.
<a href="#">1978 c. 22.</a>	The Domestic Proceedings and Magistrates' Courts Act 1978.	In Schedule 2, paragraphs 3,4, 5, 8, 20 and 24.