



# Children Act 1989

## 1989 CHAPTER 41

### PART XII

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **103 Offences by bodies corporate.**

- (1) This section applies where any offence under this Act is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

#### **Commencement Information**

**II** s. 103 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

#### **104 Regulations and orders.**

- (1) Any power of the Lord Chancellor [<sup>F1</sup>, the Treasury][<sup>F2</sup>, the Secretary of State or the National Assembly for Wales] under this Act to make an order, regulations, or rules, except an order under section [<sup>F3</sup>54(2)], 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section [<sup>F4</sup>4(1B), [<sup>F5</sup>4ZA(3),] 17(4), 107 or 108(2) [<sup>F6</sup> or one containing regulations which fall within subsection [<sup>F7</sup>(3AA),][<sup>F8</sup>(3AB),] (3B) [<sup>F9</sup>, (3BA)] or (3C)], shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- [<sup>F10</sup>(2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales.]
- [<sup>F11</sup>(3) An order under section [<sup>F12</sup>4(1B) [<sup>F13</sup>, 4ZA(3)]<sup>F14</sup> . . . shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (3A) An order under section 4(1B) [<sup>F15</sup>, 4ZA(3)] or 17(4) or regulations which fall within subsection [<sup>F16</sup>(3AA),]<sup>F18</sup>(3AB),] (3B) [<sup>F17</sup>, (3BA)]<sup>F18</sup>, (3BB)] or (3C) shall not be made by the Secretary of State unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- [<sup>F19</sup>(3AA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZB(9).]
- [<sup>F20</sup>(3AB) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZE(5).]
- (3B) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by section 23C(5B)(b).
- [<sup>F21</sup>(3BA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 31(3C) or 32(9).]
- [<sup>F22</sup>(3BB) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by paragraph 3B(4) of Schedule A1.]
- (3C) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by paragraph 6(2) of Schedule 2.]
- (4) Any statutory instrument made under this Act may—
- (a) make different provision for different cases;
  - (b) provide for exemptions from any of its provisions; and
  - (c) contain <sup>F23</sup> . . . incidental, supplemental and transitional provisions <sup>F23</sup> . . . .

#### Textual Amendments

- F1** Words in s. 104 inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 19; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F2** Words in s. 104(1) substituted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 10(a)**; S.I. 2008/2870, **art. 2(2)(e)**
- F3** Words in s. 104(1) repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F4** Word in s. 104(2) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**
- F5** Words in s. 104(2) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(a)**; S.I. 2009/479, **art. 6(1)(e)**
- F6** Words in s. 104(2) inserted (E.W.) (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(2)**
- F7** Word in s. 104(2) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. **96(2)(a)**, 139(6); S.I. 2015/375, **art. 2(c)**

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- F8** Word in s. 104(2) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. 97(2)(a), 139(6); S.I. 2015/375, art. 2(c)
- F9** Words in s. 104(2) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), ss. 16(1)(a), 139(6); S.I. 2014/889, art. 4(e) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F10** S. 104(2A) inserted (8.12.2008 for S.) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, Sch. 2 para. 10(b) and omitted (E.W.) (13.11.2008) by Children and young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 25(3) and repealed (E.W.) (1.4.2011 for E., otherwise prosp.) by s. 42, {Sch. 4} of the same Act; S.I. 2008/2870, art. 2(2)(e); S.I. 2010/2891, art. 4(1)
- F11** S. 104(3A)-(3C) substituted (E.W.) (13.11.2008) for s. 104(3) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 25(4)
- F12** Words in s. 104(3) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, art. 2(2)(a)
- F13** Words in s. 104(3) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, Sch. 6 para. 30(b); S.I. 2009/479, art. 6(1)(e)
- F14** Words in s. 104(3) repealed (28.3.2011 for W., 1.4.2011 for E.) by Children and Young Persons Act 2008 (c. 23), ss. 42, 44, Sch. 4; S.I. 2010/2981, art. 4(1); S.I. 2011/949, art. 3(d)(i)
- F15** Words in s. 104(3A) inserted (1.9.2009) by The Human Fertilisation and Embryology (Consequential Amendments and Transitional and Saving Provisions) Order 2009 (S.I. 2009/1892), art. 2, Sch. 1 para. 2
- F16** Word in s. 104(3A) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. 96(2)(a), 139(6); S.I. 2015/375, art. 2(c)
- F17** Words in s. 104(3A) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), ss. 16(1)(a), 139(6); S.I. 2014/889, art. 4(e) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F18** Words in s. 104(3A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 110(a) (with Sch. 27); S.I. 2020/1236, reg. 2
- F19** S. 104(3AA) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. 96(2)(b), 139(6); S.I. 2015/375, art. 2(c)
- F20** S. 104(3AB) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), ss. 97(2)(b), 139(6); S.I. 2015/375, art. 2(c)
- F21** S. 104(3BA) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), ss. 16(1)(b), 139(6); S.I. 2014/889, art. 4(e) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F22** S. 104(3BB) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 110(b) (with Sch. 27); S.I. 2020/1236, reg. 2
- F23** Words in s. 104(4)(c) repealed (E.W.) (13.11.2008) by Children and Young persons Act 2008 (c. 23), ss. 39, 42, 44, {Sch. 3 para. 25(5)}, {Sch. 4}

#### Commencement Information

- I2** S. 104 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### [<sup>F24</sup>104A] Regulations made by the Welsh Ministers under section 31A or Part 7

- (1) Any power of the Welsh Ministers under section 31A or Part 7 to make regulations shall be exercisable by statutory instrument.
- (2) Any such statutory instrument shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

- F24** S. 104A substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 105

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## 105 Interpretation.

(1) In this Act—

[<sup>F25</sup> “activity condition” has the meaning given by section 11C;]

[<sup>F25</sup> “activity direction” has the meaning given by section 11A;]

“adoption agency” means a body which may be referred to as an adoption agency by virtue of [<sup>F26</sup>section 2 of the Adoption and Children Act 2002];

<sup>F27</sup>  
...

“bank holiday” means a day which is a bank holiday under the <sup>M1</sup>Banking and Financial Dealings Act 1971;

[<sup>F28</sup>“care home”—

(a) has the same meaning as in the Care Standards Act 2000 in respect of a care home in England; and

(b) means a place in Wales at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to persons aged 18 or over;”]

“care order” has the meaning given by section 31(11) and also includes any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Act; and any reference to a child who is in the care of an authority is a reference to a child who is in their care by virtue of a care order;

“child” means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen;

[<sup>F29</sup> “child arrangements order” has the meaning given by section 8(1);]

“child assessment order” has the meaning given by section 43(2);

[<sup>F30</sup> “child minder” has the meaning given by section 71;]

[<sup>F31</sup> “child of the family”, in relation to parties to a marriage, or to two people who are civil partners of each other, means—

(a) a child of both of them, and

(b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both of them as a child of their family];

[<sup>F32</sup>“children’s home”—

(a) has the same meaning as it has for the purposes of the Care Standards Act 2000 in respect of a children’s home in England (see section 1 of that Act); and

(b) [<sup>F33</sup>means a place in Wales at which—

((i) a care home service is provided wholly or mainly to children, or

((ii) a secure accommodation service is provided,

and in this paragraph “care home service” and “secure accommodation service” have the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2);]]

<sup>F34</sup>  
...

“community home” has the meaning given by section 53;

<sup>F35</sup>  
...

<sup>F35</sup>  
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<sup>F35</sup>  
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<sup>F35</sup>  
...

“day care” <sup>F36</sup>... has the same meaning as in section 18;

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- “disabled”, in relation to a child, has the same meaning as in section 17(11);  
F37  
...
- “domestic premises” has the meaning given by section 71(12);  
[F38“dwelling-house” includes—  
(a) any building or part of a building which is occupied as a dwelling;  
(b) any caravan, house-boat or structure which is occupied as a dwelling;  
and any yard, garden, garage or outhouse belonging to it and occupied with it;]  
[F39 “education functions” has the meaning given by section 579(1) of the Education Act 1996;]  
“education supervision order” has the meaning given in section 36;  
“emergency protection order” means an order under section 44;  
[F40 “enforcement order” has the meaning given by section 11J;]  
“family assistance order” has the meaning given in section 16(2);  
“family proceedings” has the meaning given by section 8(3);  
“functions” includes powers and duties;  
“guardian of a child” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 5;  
“harm” has the same meaning as in section 31(9) and the question of whether harm is significant shall be determined in accordance with section 31(10);  
F41  
...
- “health service hospital” [F42 means a health service hospital within the meaning given by the National Health Service Act 2006 or the National Health Service (Wales) Act 2006];  
“hospital” F43 ... has the same meaning as in the M2 Mental Health Act 1983, except that it does not include a special hospital within the meaning of that Act;  
“ill-treatment” has the same meaning as in section 31(9);  
[F44 “income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]  
[F45 “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);]  
[F46“independent hospital”  
(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and  
(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;]  
“independent school” has the same meaning as in [F47 the Education Act 1996];  
[F48“integrated care board” means a body established under section 14Z25 of the National Health Service Act 2006;]  
“local authority” means, in relation to England F49 ..., the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London [F50 in relation to Wales, the council of a county or a county

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borough] and, in relation to Scotland, a local authority within the meaning of section 1(2) of the <sup>M3</sup> Social Work (Scotland) Act 1968;

[<sup>F51</sup>[<sup>F52</sup> “local authority foster parent” has the meaning given in section 22C(12);]]

[<sup>F51</sup>“local authority foster parent” means a person authorised as such in accordance with regulations made by virtue of—

(a) paragraph 12F of Schedule 2; or

(b) sections 87 and 93 of the Social Services and Well-being (Wales) Act 2014 (regulations providing for approval of local authority foster parents);]

<sup>F53</sup>  
...

[<sup>F54</sup> “Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;]

“local housing authority” has the same meaning as in the <sup>M4</sup> Housing Act 1985;

[<sup>F55</sup> “mental nursing home” has the same meaning as in the <sup>M5</sup> Registered Homes Act 1984;]

[<sup>F56</sup> “nursing home” has the same meaning as in the Act of 1984;]

[<sup>F57</sup> “officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000;]

“parental responsibility” has the meaning given in section 3;

“parental responsibility agreement” has the meaning given in [<sup>F58</sup> sections 4(1) [<sup>F59</sup>, 4ZA(4)] and 4A(2)];

“prescribed” means prescribed by regulations made under this Act;

[<sup>F60</sup> “private children’s home” means a children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000 [<sup>F61</sup> or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016] which is not a community home or a voluntary home;]

<sup>F62</sup>  
...

“privately fostered child” and “to foster a child privately” have the same meaning as in section 66;

“prohibited steps order” has the meaning given by section 8(1);

<sup>F63</sup>  
...

[<sup>F64</sup> “registered children’s home” has the same meaning as in section 63;]

“registered pupil” has the same meaning as in [<sup>F47</sup> the Education Act 1996];

“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or [<sup>F65</sup> by marriage or civil partnership]) or step-parent;

<sup>F35</sup>  
...

[<sup>F66</sup> “residential care home” has the same meaning as in the Registered Homes Act 1984 [<sup>F67</sup> and “small home” has the meaning given by section 1(4A) of that Act];]

“responsible person”, in relation to a child who is the subject of a supervision order, has the meaning given in paragraph 1 of Schedule 3;

“school” has the same meaning as in [<sup>F47</sup> the Education Act 1996] or, in relation to Scotland, in the <sup>M6</sup> Education (Scotland) Act 1980;

[<sup>F68</sup> “section 31A plan” has the meaning given by section 31A(6);]

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“service”, in relation to any provision made under Part III, includes any facility;

“signed”, in relation to any person, includes the making by that person of his mark;

“special educational needs” has the same meaning as in [<sup>F69</sup> the Education Act 1996];

[<sup>F70</sup> “special guardian” and “special guardianship order” have the meaning given by section 14A;]

[<sup>F71</sup> “Special Health Authority” means a Special Health Authority established under [<sup>F72</sup> section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006,];]

“specific issue order” has the meaning given by section 8(1);

<sup>F73</sup> ...

“supervision order” has the meaning given by section 31(11);

“supervised child” and “supervisor”, in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

“upbringing”, in relation to any child, includes the care of the child but not his maintenance;

“voluntary home” has the meaning given by section 60;

“voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit;

[<sup>F74</sup> “Welsh family proceedings officer” has the meaning given by section 35 of the Children Act 2004.]

- (2) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to [<sup>F75</sup>, or civil partners of,] each other at the time of his birth must be read with section 1 of the <sup>M7</sup> Family Law Reform Act 1987 (which extends the meaning of such references).

<sup>F76</sup>(3) .....

[<sup>F77</sup>(4) References in this Act to a child who is looked after—

- (a) in relation to a child who is looked after by a local authority in England, has the meaning given in section 22; and
- (b) in relation to a child who is looked after by a local authority in Wales, has the meaning given in section 74 of the Social Services and Well-being (Wales) Act 2014 (child or young person looked after by a local authority).]

- (5) References in this Act to accommodation provided by or on behalf of a local authority are references to accommodation so provided in the exercise of functions [<sup>F78</sup> of that or any other local authority which are social services functions]<sup>F79</sup> ....

<sup>F80</sup>(5A) .....

[<sup>F81</sup>(5B) References in this Act to acting as a child minder and to a child minder shall be construed, in relation to Scotland, in accordance with section 2(17) of the Regulation of Care (Scotland) Act 2001 (asp 8).]

[<sup>F82</sup>(5B) In subsection (5) “social services functions” means—

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- (a) in England, social services functions within the meaning of the Local Authority Social Services Act 1970, and
  - (b) in Wales, social services functions within the meaning of the Social Services and Well-being (Wales) Act 2014.]
- (6) In determining the “ordinary residence” of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—
- (a) which is a school or other institution;
  - (b) in accordance with the requirements of a supervision order under this Act <sup>F83</sup> ...;
  - [<sup>F84</sup>(ba) in accordance with the requirements of a youth rehabilitation order under [<sup>F85</sup>Chapter 1 of Part 9 of the Sentencing Code]; or]
  - (c) while he is being provided with accommodation by or on behalf of a local authority.
- (7) References in this Act to children who are in need shall be construed in accordance with section 17.
- [<sup>F86</sup>(7A) References in this Act to a hospital or accommodation made available or provided pursuant to arrangements made by the Secretary of State under the National Health Service Act 2006 are references to a hospital or accommodation made available or provided pursuant to arrangements so made in the exercise of the public health functions of the Secretary of State (within the meaning of that Act).
- [<sup>F87</sup>(7B) References in this Act to arrangements made by NHS England or an integrated care board under the National Health Service Act 2006 include references to arrangements so made in the exercise of functions of another person by virtue of any provision of that Act.]]
- (8) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service at his proper address.
- (9) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (10) For the purposes of this section, and of section 7 of the <sup>M8</sup> Interpretation Act 1978 in its application to this section, the proper address of a person—
- (a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;
  - (b) in the case of a partner of a firm, shall be that of the principal office of the firm; and
  - (c) in any other case, shall be the last known address of the person to be served.

#### Textual Amendments

- F25** Words in s. 105(1) inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 38\(2\)\(a\)](#); [S.I. 2014/889](#), [art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F26** S. 105(1): words in definition of "adoption agency" substituted (30.12.2005) by [2002 c. 38](#), [ss. 139, 148](#), [Sch. 3 para. 70\(a\)](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2005/2213](#), [art. 2\(o\)](#)



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- F27** Words in s. 105(1) repealed (1.4.2011 for E., 6.4.2016 for W.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), Sch. 1 para. 3(2), **Sch. 4**; S.I. 2010/2981, art. 4(a)(l); S.I. 2016/452, art. 2(b); S.I. 2017/948, art. 2(c)(ii)
- F28** Words in s. 105(1) substituted (E.W.) (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), **regs. 2, 12(a)**
- F29** Words in s. 105(1) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 38(2)(b)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F30** S. 105(1): definition of "child minder" repealed (1.4.2002 for W. and otherwise (prosp.) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2002/ 920, art. 3(3)(g) (with arts. 3(5)-(10))
- F31** S. 105(1): definition of "child of the family" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 75(3)**; S.I. 2005/3175, **art. 2(1), Sch. 1**
- F32** Words in s. 105(1) substituted (E.W.) (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), **regs. 2, 12(b)**
- F33** Words in s. 105(1) substituted (E.W.) (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), **regs. 1(2), 5**
- F34** Words in s. 105(1) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 36(a)**; S.I. 2022/734, **reg. 2(a), Sch. (with regs. 13, 29, 30)**
- F35** Words in s. 105(1) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 38(2)(c)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F36** S. 105(1): words in the definition of "day care" repealed (W.) (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 72, 73, 75, Sch. 1 para. 7(a)(i), Sch. 2; S.I. 2010/2582, **art. 2, Sch. 1** (subject to arts. 3, 4, 5) (as amended by S.I. 2011/577, art. 2)
- F37** Definition of "district health authority" in s. 105(1) repealed (1.4.1996) by 1995 c. 17, ss.2(1), 5(1)(2), **Schs. 1, para. 118(10)(a), 3**(with Sch. 2 paras. 6, 16)
- F38** Definition in s. 105(1) inserted (1.10.1997) by 1996, c. 27, s. 52, Sch. 6 para. 5(with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3**
- F39** S. 105(1): definition of "education functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(13)(a)**
- F40** S. 105(1): definition of "enforcement order" inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), s. 15, **Sch. 2 para. 11**; S.I. 2008/2870, **art. 2(2)(e)**
- F41** S. 105: definition of "health authority" omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(a)**
- F42** S. 105: words in definition of "health service hospital" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(b)**
- F43** S. 105(1): words in the definition of "hospital" repealed (W.) (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 72, 73, 75, Sch. 1 para. 7(a)(ii), Sch. 2; S.I. 2010/2582, **art. 2, Sch. 1** (subject to arts. 3, 4, 5) (as amended by S.I. 2011/577, art. 2)
- F44** Definition of "income-based jobseeker's allowance" in s. 105 inserted (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(4)**; S.I. 1996/2208, **art. 2(b)**
- F45** S. 105(1): definition of "income-related employment and support allowance" inserted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(5)**; S.I. 2008/787, **art. 2(4)(f)**
- F46** S. 105(1): definition of "independent hospital" substituted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **art. 7(3)**
- F47** Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37, Pt. I para. 91**(with Sch. 39, paras. 30, 39)
- F48** Words in s. 105(1) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 36(b)**; S.I. 2022/734, **reg. 2(a), Sch. (with regs. 13, 29, 30)**
- F49** Words in s. 105(1) repealed (1.4.1996) by 1994 c. 19, ss. 22(4), s. 66(8), Sch. 10 para. 13, **Sch. 18**(with s. 66(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F50** Words in definition of "local authority" in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 13** (with s. 66(7), Sch. 17 paras. 22, 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

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- F51** Words in s. 105(1) substituted (E.W.) (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **106(a)**
- F52** S. 105(1): definition substituted (1.4.2011 for E., otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), ss. 8(2), 44, **Sch. 1 para. 3(4)**; S.I. 2010/2891, **art. 4(a)**
- F53** S. 105(1): definition of "local education authority" repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1)(2), Sch. 2 para. 37(13)(b), **Sch. 3 Pt. 2**
- F54** S. 105: definition of "Local Health Board" inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), arts. 2, 3, **Sch. para. 20(3)**
- F55** S. 105(1): definition of "mental nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F56** S. 105(1): definition of "nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F57** S. 105(1): definition of "officer of the Service" inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 95**; S.I. 2001/919, **art. 2(f)(ii)**
- F58** S. 105(1): words in definition of "parental responsibility agreement" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(c)** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F59** S. 105(1): word in the definition of "parental responsibility agreement" inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 31**; S.I. 2009/479, **art. 6(1)(e)**
- F60** S. 105(1): definition of "private children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(vii)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F61** Words in s. 105(1) inserted (E.W.) (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), **regs. 2, 12(c)**
- F62** Words in s. 105(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 56(2)(b)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F63** S. 105(1): definition of "protected child" repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(d)**, **Sch. 5** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F64** S. 105(1): definition of "registered children's home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F65** S. 105(1): words in definition of "relative" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 75(4)**; S.I. 2005/3175, **art. 2(1)**, **Sch. 1**
- F66** S. 105(1): definition of "residential care home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F67** Words in s. 105(1) inserted (1.4.1993) by Registered Homes Act 1991 (c. 20, SIF 113:3), **s. 2(6)**; S.I. 1992/2240, **art. 2**.
- F68** S. 105(1): definition of "section 31A plan" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(b)** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F69** Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I**, para. 91 (with **Sch. 39**, paras. 30, 39)
- F70** S. 105(1): definition of "special guardian" and "special guardianship order" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(e)** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, **art. 2(o)**
- F71** Definition of "special health authority" in s. 105(1) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(10)(c) (with **Sch. 2 para. 6**)

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- F72** S. 105: words in definition of "Special Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(d)**
- F73** Words in s. 105(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 56(2)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F74** S. 105(1): definition of "Welsh family proceedings officer" inserted (1.4.2005) by Children Act 2004, (c. 31), s. 40, {Sch. 3 para. 11}; S.I. 2005/700, **art. 2(2)**
- F75** Words in s. 105(2) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), regs. 1(2), **15(4)**
- F76** S. 105(3) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 38(3)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F77** S. 105(4) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **106(b)**
- F78** Words in s. 105(5) substituted (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 22**; S.I. 2000/2849, **art. 2(f)**
- F79** Words in s. 105(5) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **106(c)**
- F80** S. 105(5A) repealed (W.) (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 72, 73, 75, Sch. 1 para. 7(b), Sch. 2; S.I. 2010/2582, **art. 2, Sch. 1** (subject to arts. 3, 4, 5) (as amended by S.I. 2011/577, art. 2)
- F81** S. 105(5B) inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 15(2)(b)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)
- F82** S. 105(5B) inserted (E.W.) (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **106(d)**
- F83** Words in s. 105(6)(b) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 36(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)(u)(xi)**
- F84** S. 105(6)(ba) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 36(b)** (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, **art. 2(p)(v)**
- F85** Words in s. 105(6)(ba) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 111** (with Sch. 27); S.I. 2020/1236, reg. 2
- F86** S. 105(7A)(7B) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 56(3)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F87** S. 105(7B) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 9 para. 2**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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

- C1** S. 105(4) applied (26.7.2021) by The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (S.S.I. 2021/174), regs. 1, **17(6)(b)** (with sch. para. 13(a))
- C2** S. 105(4) applied (S.) (21.3.2022) by The Disability Assistance for Working Age People (Scotland) Regulations 2022 (S.S.I. 2022/54), regs. 1, **27(6)(b)**

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#### Commencement Information

- I3** S. 105 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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#### Marginal Citations

- M1** 1971 c. 80.  
**M2** 1983 c. 20.  
**M3** 1968 c. 49.  
**M4** 1985 c. 68.  
**M5** 1984 c. 23.  
**M6** 1980 c. 44.  
**M7** 1987 c. 42.

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**M8** 1978 c. 30.

## 106 Financial provisions.

- (1) Any—
  - (a) grants made by the Secretary of State under this Act; and
  - (b) any other expenses incurred by the Secretary of State under this Act,
 shall be payable out of money provided by Parliament.
- (2) Any sums received by the Secretary of State under section 58, or by way of the repayment of any grant made under section 82(2) or (4) shall be paid into the Consolidated Fund.

### Commencement Information

**I4** S. 106 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

## 107 Application to Channel Islands.

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to any of the Channel Islands with such exceptions and modifications as may be specified in the Order.

### Commencement Information

**I5** S. 107 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

## 108 Short title, commencement extent etc.

- (1) This Act may be cited as the Children Act 1989.
- (2) Sections 89 and 96(3) to (7), and paragraph 35 of Schedule 12, shall come into force on the passing of this Act and paragraph 36 of Schedule 12 shall come into force at the end of the period of two months beginning with the day on which this Act is passed but otherwise this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or the Secretary of State, or by both acting jointly.
- (3) Different dates may be appointed for different provisions of this Act and in relation to different cases.
- (4) The minor amendments set out in Schedule 12 shall have effect.
- (5) The consequential amendments set out in Schedule 13 shall have effect.
- (6) The transitional provisions and savings set out in Schedule 14 shall have effect.
- (7) The repeals set out in Schedule 15 shall have effect.
- (8) An order under subsection (2) may make such transitional provisions or savings as appear to the person making the order to be necessary or expedient in connection with the provisions brought into force by the order, including—
  - (a) provisions adding to or modifying the provisions of Schedule 14, and

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- (b) such adaptations—
- (i) of the provisions brought into force by the order; and
  - (ii) of any provisions of this Act then in force,
- as appear to him necessary or expedient in consequence of the partial operation of this Act.
- (9) The Lord Chancellor may by order make such amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.
- (10) 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.
- (11) The following provisions of this Act extend to Scotland—
- [<sup>F88</sup>section 19;]
  - section 25(8);
  - section 50(13);
  - [<sup>F88</sup>Part X;
  - section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);]
  - section 88;
  - section 104 (so far as necessary);
  - section 105 (so far as necessary);
  - subsections (1) to (3), (8) and (9) and this subsection;
  - in Schedule 2, paragraph 24;
  - in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44;
  - in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71;
  - in Schedule 14, paragraphs 1, 33 and 34;
  - in Schedule 15, the entries relating to—
- (a) the <sup>M9</sup>Custody of Children Act 1891;
  - (b) the <sup>M10</sup>Nurseries and Child Minders Regulation Act 1948;
  - (c) section 53(3) of the <sup>M11</sup>Children and Young Persons Act 1963;
  - (d) section 60 of the <sup>M12</sup>Health Services and Public Health Act 1968;
  - (e) the <sup>M13</sup>Social Work (Scotland) Act 1968;
  - (f) the <sup>M14</sup>Adoption (Scotland) Act 1978;
  - (g) the <sup>M15</sup>Child Care Act 1980;
  - (h) the <sup>M16</sup>Foster Children (Scotland) Act 1984;
  - (i) the <sup>M17</sup>Child Abduction and Custody Act 1985; and
  - (j) the <sup>M18</sup>Family Law Act 1986.
- (12) The following provisions of this Act extend to Northern Ireland—
- section 50;
  - section 101(1)(b), (2) and (5)(a)(i);
  - subsections (1) to (3), (8) and (9) and this subsection;
  - in Schedule 2, paragraph 24;
  - in Schedule 12, paragraphs 7 to 10, 18 and 27;
  - in Schedule 13, paragraphs 21, 22, 46, 47, 57, 62, 63, 68(c) to (e) and 69 to 71;

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in Schedule 14, paragraphs <sup>F89</sup> . . . , 28 to 30 and 38(a); and  
in Schedule 15, the entries relating to the <sup>M19</sup>Guardianship of Minors Act 1971,  
the <sup>M20</sup>Children Act 1975, the Child Care Act 1980, and the Family Law Act  
1986.

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#### Extent Information

**E1** S. 108 extends to England and Wales, except s. 108(1)(3)(8)(9) which extend to the United Kingdom.  
See s. 108(11)(12).

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#### Textual Amendments

**F88** Words in s. 108(11) repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(g)**  
**(i)** (subject to arts. 3-13)

**F89** Word in s. 108(12) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss.  
116, 125(7), Sch. 16 para. 25, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

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#### Marginal Citations

**M9** 1891 c. 3.

**M10** 1948 c. 53.

**M11** 1963 c. 37.

**M12** 1968 c. 46.

**M13** 1968 c. 49.

**M14** 1978 c. 28.

**M15** 1980 c. 5.

**M16** 1984 c. 56.

**M17** 1985 c. 60.

**M18** 1986 c. 55.

**M19** 1971 c. 3.

**M20** 1975 c. 72

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

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

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