



Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37

An Act to consolidate in their application to Scotland certain enactments relating to persons under the age of eighteen years. [1st July 1937.]

BE IT ENACTED by the King'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

CHILD LIFE PROTECTION

1 Notices to be given by persons receiving children for reward

- (1) Where a person undertakes for reward the nursing and maintenance of a child under the age of nine years apart from his parents, or having no parents, he shall give notice in writing thereof to the local authority:—
- (a) in the case of a child not already in his care, being the first child proposed to be received by him for reward in the dwelling occupied or proposed to be occupied for the purpose, not less than seven days before he receives the child;
 - (b) in the case of any other child not already in his care, not less than forty-eight hours before he receives the child; and
 - (c) in the case of a child already in his care without reward, within forty-eight hours after entering into the undertaking :

Provided that, in any proceedings in respect of a failure to give such notice as aforesaid, it shall be a defence for the accused person to prove that the child was received by him upon an emergency and that notice was given by him within twelve hours thereafter.

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For the purposes of this subsection, an undertaking shall be deemed to be an undertaking for reward if there is any payment or gift of money or money's worth, or any promise to pay or give money or money's worth, irrespective of whether there is any intention of making profit.

- (2) The notice required by the preceding subsection shall state the name and sex of the child, the date and place of his birth, the name of the person undertaking his nursing and maintenance, the dwelling within which he is to be, or is being, kept and the name of the person from whom he is to be, or was, received.
- (3) Any reference in the following provisions of this Part of this Act to a child in respect of whom such a notice as aforesaid is required to be given shall be construed as including a reference to a child under the age of nine years in respect of whom such a notice has been given and who is still living apart from his parents, if any, with the person by whom the notice was given.
- (4) If a person who is maintaining a child in respect of whom notice is required to be given under this Part of this Act changes his residence, he shall at least seven days before so doing give to the local authority notice in writing of the change, and, where the residence to which he moves is situate in the area of another local authority, he shall at least seven days before so moving give to that local authority the like notice as respects each child in his care as is by this section required to be given on the first reception of a child:

Provided that, where an immediate change of residence is necessitated by any emergency, a notice under this subsection may be given at any time within forty-eight hours after the change of residence.

- (5) If any such child dies or is removed from the care of the person who has undertaken his nursing and maintenance, that person shall, within twenty-four hours thereof, give to the local authority and to the person from whom the child was received notice in writing of the death or removal, and in a case of removal the notice shall also state the name and address of the person to whose care the child has been transferred.
- (6) If any person required to give a notice under this section fails to give the notice before the latest time specified for giving the notice, he shall be guilty of an offence under this Part of this Act, and, if the consideration for the nursing and maintenance of the child in respect of which notice ought to have been given consisted in whole or in part of a lump sum, the person failing to give the notice shall, in addition to any other penalty under this Part of this Act, be liable to forfeit that sum or such less sum as the court having cognizance of the case may deem just, and the sum forfeited shall be applied for the benefit of the child in such manner as the court may direct.

For the purposes of any enactment by which the time for taking proceedings is limited, an offence under this subsection shall be deemed to continue so long as the child in respect of whom a notice ought to have been given remains in the care of the offender without any notice having been given.

- (7) Any reference in this Part of this Act to a notice required to be given thereunder or by or under any provision thereof shall be construed as including a reference to a notice required to be given under any enactment relating to infant life protection repealed by this Act, and any person who at the commencement of this Act is nursing and maintaining for reward a child in respect of whom a notice required to be given under any such enactment so repealed has not been given before the latest time specified for

giving such notice shall be deemed to be guilty of an offence under the last foregoing subsection.

2 Appointment and powers of inspectors, and c

- (1) It shall be the duty of every local authority to provide for the execution of this Part of this Act within their area, and for that purpose they shall from time to time make inquiry whether there are any persons residing therein who undertake the nursing and maintenance of children in respect of whom notice is required to be given under this Part of this Act.
- (2) If in the area of any local authority any persons are found to undertake the nursing and maintenance of such children as aforesaid, the local authority shall appoint one or more persons to be child protection visitors, whose duty it shall be from time to time to visit any children in respect of whom notice is required to be given under this Part of this Act, and the premises in which they are kept, in order to satisfy themselves as to the health and well-being of the children or to give any necessary advice or directions as to the care of their health and their maintenance :

Provided that the local authority may, either in addition to or in lieu of appointing child protection visitors, authorise in writing one or more suitable persons to exercise the powers of such visitors, subject to such terms and conditions as may be stated in the authorisation, and, where any children have been placed out to nurse in the area of the authority by any philanthropic society, may, if satisfied that the interests of the children are properly safeguarded, so authorise the society to exercise those powers as respects those children, subject, however, to the obligation to furnish periodical reports to the local authority.

Where a local authority appoint or authorise one person only to act under this subsection, that person and, where they so appoint or authorise two or more persons, one at least of those persons, shall be a woman.

- (3) A local authority may exempt from being visited, either unconditionally or subject to such conditions as they think fit, any particular premises within their area which appear to them to be so conducted that it is unnecessary that they should be visited.
- (4) If any person undertaking the nursing and maintenance of any such children as aforesaid refuses to allow any such visitor or other person to visit or examine the children or the premises in which they are kept, he shall be guilty of an offence under this Part of this Act.
- (5) If any such visitor or other person is refused admittance to any premises in contravention of this Part of this Act, or has reason to believe that any children under the age of nine years are being kept in premises in contravention of this Part of this Act, he may apply to a justice, who, on being satisfied, on information on oath, that there is reasonable ground for believing that an offence under this Part of this Act has been committed, may grant a warrant authorising the visitor or other person to enter the premises for the purpose of ascertaining whether any offence under this Part of this Act has been committed, and if the occupier of the premises or any other person obstructs or causes or procures to be obstructed any visitor or other person acting in pursuance of such a warrant, he shall be guilty of an offence under this Part of this Act.

3 Persons prohibited from receiving children for reward

A child in respect of whom notice is required to be given under this Part of this Act, shall not, without the written sanction of the local authority, be kept—

- (a) by any person from whose care any child has been removed under this Part of this Act, or Part I of the Children Act, 1908, or the Infant Life Protection Act, 1897; or
- (b) in any premises from which any child has been removed under this Part of this Act, or Part I of the Children Act, 1908, by reason of the premises being dangerous or insanitary, or has been removed under the Infant Life Protection Act, 1897, by reason of the premises being so unfit as to endanger his health; or
- (c) by any person who has been convicted of any offence under sections twelve, thirteen, fourteen, fifteen, or twenty-two of this Act or under Part II of the Children Act, 1908, or of any offence of cruelty under the Prevention of Cruelty to Children Act, 1904;

and any person keeping a child contrary to this section, or causing a child to be so kept, shall be guilty of an offence under this Part of this Act.

4 Powers of local authority to prevent overcrowding

The local authority may fix the maximum number of children under the age of nine years who may be kept in any dwelling in which there is any child in respect of whom notice is required to be given under this Part of this Act and may also impose conditions to be complied with so long as the number of children kept in the dwelling exceeds a specified number.

If the maximum number so fixed is exceeded, or if any condition so imposed is not complied with, a person who keeps in that dwelling a child with respect to whom such a notice is required to be given as aforesaid, shall be guilty of an offence under this Part of this Act.

5 Removal of children kept in unsuitable premises, or by unsuitable persons

(1) If a child in respect of whom notice is required to be given under this Part of this Act is about to be received or is being kept—

- (a) in any premises which are overcrowded, insanitary or dangerous; or
- (b) by any person who, by reason of old age, infirmity, ill-health, ignorance, negligence, inebriety, immorality or criminal conduct, or for any other reason, is unfit to have care of him; or
- (c) in any premises or by any person in contravention of any of the provisions of this Part of this Act; or
- (d) in an environment which is detrimental to the child;

the sheriff may, on the application of the local authority, make an order directing the removal of the child to a place of safety until he can be restored to his relatives, or until other arrangements can be made with respect to him; and, upon proof that there is imminent danger to the health or well-being of the child concerned, a justice may exercise the like power on the application of a visitor or other person appointed or authorised to execute the provisions of this Part of this Act, and, if need be, may exercise that power *ex parte*.

- (2) An order made under the foregoing subsection may be enforced by a constable, or by a visitor or other person appointed or authorised as aforesaid; and any person who refuses to comply with such an order upon its being produced, or who obstructs any such constable, visitor or person as aforesaid in the enforcement of the order, shall be guilty of an offence under this Part of this Act.

6 Notice to procurator fiscal

- (1) In the case of the death of a child in respect of whom notice is required to be given under this Part of this Act, the person who had the care of the child shall, within twenty-four hours of the death, give notice in writing thereof to the procurator fiscal of the district within which the body of the child lies, and the procurator fiscal shall hold an inquiry into the cause of death, unless there is produced to him a certificate under the hand of a duly qualified medical practitioner certifying that that practitioner has personally attended the child during his last illness, and specifying the cause of death, and the procurator fiscal is satisfied that there is no ground for holding an inquiry.
- (2) If any person required to give a notice under this section fails to give the notice within the time specified for the purpose, he shall be guilty of an offence under this Part of this Act.

7 Avoidance of policies of life insurance of children kept for reward

A person who keeps a child in respect of whom notice is required to be given under this Part of this Act shall be deemed to have no interest in the life of the child for the purposes of the Life Assurance Act, 1774, and, if any such person directly or indirectly insures or attempts to insure the life of such a child, he shall be guilty of an offence under this Part of this Act, and, if any company, society, or person knowingly issues, or procures or attempts to procure to be issued, to or for the benefit of such a person as aforesaid or to any person on his behalf, a policy on the life of such a child, the company, society, or person shall be guilty of an offence under this Part of this Act.

8 Provisions as to notices

- (1) If any person required to give a notice under this Part of this Act knowingly or wilfully makes, or causes or procures any other person to make, any false or misleading statement in any such notice, he shall be guilty of an offence under this Part of this Act.
- (2) Any notice by this Part of this Act required to be given to a local authority may be sent by post in a registered letter addressed to them or their clerk at their offices or to some other officer of the local authority, duly authorised in that behalf: any notice so required to be given to a procurator fiscal may be sent by post in a registered letter addressed to him at his office or at his residence, and any notice so required to be given to any other person may be sent by post in a registered letter addressed to him at his last known place of abode or permanent address.

9 Prohibition of anonymous advertisements offering to undertake care of children

- (1) No advertisement indicating that a person or society will undertake, or will arrange for, the nursing and maintenance of a child under the age of nine years shall be published unless that person's name and residence, or, as the case may be, that society's name and office, are truly stated in the advertisement.

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- (2) Every person who knowingly publishes any advertisement in contravention of the provisions of this section shall be guilty of an offence under this Part of this Act.

10 Prosecution of offences

Every person guilty of an offence under this Part of this Act shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding twenty-five pounds, and the court may order any child in respect of whom the offence was committed to be removed to a place of safety.

11 Exemptions

- (1) The foregoing provisions of this Part of this Act shall not extend to any relative or legal guardian of a child who undertakes the nursing and maintenance of the child, or to any person who undertakes the nursing or maintenance of a child under the provisions of any Act for the relief of the poor; or to any hospital, convalescent home, or institution—
- (a) which is maintained by a Government department, local authority, or any other authority or body constituted by special Act of Parliament or Royal Charter; or
 - (b) to which a certificate of exemption from the said provisions has been granted by the local authority; or
 - (c) of which particulars are required to be, and are, transmitted annually to the Secretary of State under the provisions of the Part of this Act relating to voluntary homes; or
 - (d) which is an institution or house certified by the General Board of Control for Scotland under the Mental Deficiency and Lunacy (Scotland) Act, 1913, and in which no children or young persons who are not mental defectives within the meaning of that Act are received;

nor shall the said provisions apply in relation to any mental defective who is under guardianship in pursuance of an order under the Mental Deficiency and Lunacy (Scotland) Act, 1913.

- (2) For the purposes of this section, the expression " relatives " means grandparents, brothers, sisters, uncles, and aunts, by consanguinity or affinity, and in the case of illegitimate children the persons who would be so related if the child were legitimate.

PART II

PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND PHYSICAL DANGER

Offences

12 Cruelty to persons under sixteen

- (1) If any person who has attained the age of sixteen years and has the custody, charge, or care of any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb,

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- or organ of the body, and any mental derangement), that person shall be guilty of an offence, and shall be liable—
- (a) on conviction on indictment, to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding two years;
 - (b) on summary conviction, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding six months.
- (2) For the purposes of this section—
- (a) a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under the Acts relating to the relief of the poor;
 - (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with some other person who has attained the age of sixteen years, that other person shall, if he was, when he went to bed, under the influence of drink, be deemed to have neglected the child in a manner likely to cause injury to his health.
- (3) A person may be convicted of an offence under this section—
- (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;
 - (b) notwithstanding the death of the child or young person in question.
- (4) Where any person who has attained the age of sixteen years is tried on indictment for the culpable homicide of a child or young person under the age of sixteen years of whom he had the custody, charge, or care, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section, to find him guilty of that offence.
- (5) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the child or young person, and had knowledge that that sum of money was accruing or becoming payable, then—
- (a) in the case of a conviction on indictment, the maximum amount of the fine which may be imposed under this section shall be two hundred pounds, and the court shall have power, in lieu of inflicting any other penalty under this section, to sentence the person convicted to penal servitude for any term not exceeding five years; and
 - (b) in the case of a summary conviction, the court in determining the sentence to be pronounced shall take into consideration the fact that the person was so interested and had such knowledge.
- (6) For the purposes of the last foregoing subsection—
- (a) a person shall be deemed to be directly or in directly interested in a sum of money if he has any share in or any benefit from the payment of that money, notwithstanding that he may not be a person to whom it is legally payable; and

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(b) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting the policy, shall be evidence that the child or young person therein stated to be insured has in fact been so insured, and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable.

(7) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to him.

13 Causing, encouraging or favouring seduction or prostitution of girl under sixteen

(1) If any person having the custody, charge, or care of a girl under the age of sixteen years causes or encourages the seduction, unlawful carnal knowledge, or prostitution of, or the commission of an indecent assault upon, her, he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for any term not exceeding two years, or on summary conviction to imprisonment for any term not exceeding three months.

(2) For the purposes of this section, a person shall be deemed to have caused or encouraged the seduction, unlawful carnal knowledge, or prostitution of, or the commission of an indecent assault upon, a girl who has been seduced, unlawfully carnally known, or indecently assaulted, or who has become a prostitute, if he has knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) The foregoing provisions of this section shall apply to a contravention of section four of the Criminal Law Amendment Act, 1922, in like manner as they apply to an indecent assault, and any reference to the commission of such an assault or to being indecently assaulted shall be construed accordingly.

14 Allowing persons under sixteen to be in brothels

(1) If any person having the custody, charge, or care of a child or young person who has attained the age of four years and is under the age of sixteen years, allows that child or young person to reside in or to frequent a brothel, he shall be guilty of an offence and shall be liable on conviction on indictment, or on summary conviction, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding six months.

(2) Nothing in this section shall affect the liability of a person to be indicted under section six of the Criminal Law Amendment Act, 1885, but upon the trial of a person under that section it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section, to find him guilty of that offence.

15 Causing or allowing persons under sixteen to be used for begging

(1) If any person causes or procures any child or young person under the age of sixteen years or, having the custody, charge, or care of such a child or young person, allows him, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise) he shall, on summary

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conviction, be liable to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding three months.

- (2) If a person having the custody, charge, or care of a child or young person is charged with an offence under this section, and it is proved that the child or young person was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child or young person to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises, or place for that purpose unless the contrary is proved.
- (3) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

16 Giving exciseable liquor to children under five

If any person gives, or causes to be given, to any child under the age of five years any exciseable liquor, except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness, or other urgent cause, he shall, on summary conviction, be liable to a fine not exceeding three pounds.

17 Causing or allowing children to be in bars of licensed premises

- (1) The holder of the certificate of any licensed premises shall not allow a child to be at any time in the bar of the licensed premises during the permitted hours.
- (2) If the holder of a certificate acts in contravention of this section, or if any person causes, or procures, or attempts to cause or procure, any child to go to, or to be in, the bar of any licensed premises during the permitted hours, he shall be liable, on summary conviction, to a fine not exceeding, in respect of the first offence, forty shillings, and in respect of any subsequent offence, five pounds.
- (3) If a child is found in the bar of any licensed premises during the permitted hours, the holder of the certificate shall be deemed to have committed an offence under this section unless he shows that he had used due diligence to prevent the child being admitted to the bar or that the child had apparently attained the age of fourteen years.
- (4) Nothing in this section shall apply in the case of any child who is—
 - (a) a child of the certificate holder; or
 - (b) resident but not employed in the licensed premises; or
 - (c) in the bar of licensed premises solely for the purpose of passing to or from some other part of the premises, being a part to or from which there is no other convenient means of access or egress and not being itself a bar; or
 - (d) in any railway refreshment rooms or other premises constructed, fitted and intended to be used in good faith for any purpose to which the holding of a certificate is merely auxiliary.

18 Sale of tobacco, and c. to persons under sixteen

- (1) Any person who sells to a person apparently under the age of sixteen years any tobacco or cigarette papers, whether for his own use or not, shall be liable, on summary

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conviction, in the case of a first offence to a fine not exceeding two pounds, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds :

Provided that a person shall not be guilty of an offence under this section in respect of any sale of tobacco otherwise than in the form of cigarettes, if he did not know and had no reason to believe that the tobacco was for the use of the person to whom it was sold.

- (2) If on application to a court of summary jurisdiction it is proved to the satisfaction of the court that any automatic machine for the sale of tobacco kept on any premises is being extensively used by persons apparently under the age of sixteen years, the court may order the owner of the machine, or the person on whose premises the machine is kept, to take such precautions to prevent the machine being so used as may be specified in the order or, if necessary, to remove the machine, within such time as may be specified in the order, and if any person against whom such an order has been made fails to comply therewith, he shall be liable, on summary conviction, to a fine not exceeding five pounds, and to a further fine not exceeding one pound for each day during which the offence continues.
- (3) It shall be the duty of a constable and of a park-keeper being in uniform to seize any tobacco or cigarette papers in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and any tobacco or cigarette papers so seized shall be disposed of, if seized by a constable, in such manner as the police authority may direct, and if seized by a park-keeper, in such manner as the authority or person by whom he was appointed may direct.
- (4) Nothing in this section shall make it an offence to sell tobacco or cigarette papers to, or shall authorise the seizure of tobacco or cigarette papers in the possession of, any person who is at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business, or is a boy messenger in uniform in the employment of a messenger company and employed as such at the time.
- (5) For the purposes of this section the expression " tobacco" includes cigarettes and smoking mixtures intended as a substitute for tobacco, and the expression " cigarettes " includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

19 Taking pawns from persons under fourteen

If a pawnbroker takes an article in pawn from any person apparently under the age of fourteen years, whether offered by that person on his own behalf or on behalf of any other person, he shall be guilty of an offence against the Pawnbrokers Act, 1872.

20 Purchase of old metals from persons under sixteen

- (1) If a dealer in old metal as defined by the Prevention of Crimes Act, 1871, or a marine store dealer within the meaning of Part IX of the Merchant Shipping Act, 1894, purchases from any person apparently under the age of sixteen years any old metal, whether offered for sale by that person on his own behalf or on behalf of any other person, he shall be liable on summary conviction to a fine not exceeding five pounds.
- (2) For the purposes of this section " old metal " includes scrap metal, broken metal, or partly manufactured metal goods, and old or defaced metal goods.

21 Punishment of vagrants preventing children from receiving education

- (1) If a person habitually wanders from place to place and takes with him any child who has attained the age of five years, he shall, unless he proves that the child is totally exempted from school attendance or that the child is not, by being so taken with him, prevented from receiving efficient education, be liable on summary conviction to a fine not exceeding with expenses twenty shillings.
- (2) Any constable who finds a person wandering from place to place and taking a child with him may, if he has reasonable ground for believing that the person is guilty of an offence under this section, apprehend him without a warrant, and may take the child to a place of safety in accordance with the provisions of this Act.
- (3) Without prejudice to the requirements of the Education (Scotland) Acts, 1872 to 1936, as to school attendance or to proceedings thereunder, this section shall not, during the months of April to September inclusive, apply to any child whose parent or guardian is engaged in a trade or business of such a nature as to require him to travel from place to place, if a certificate has been obtained that the child has made not less than two hundred attendances at a public school during the months of October to March immediately preceding.

22 Exposing children under seven to risk of burning

If any person who has attained the age of sixteen years, having the custody, charge, or care of any child under the age of seven years, allows the child to be in any room containing an open fire grate not sufficiently protected to guard against the risk of his being burnt or scalded without taking reasonable precautions against that risk, and by reason thereof the child is killed or suffers serious injury, he shall on summary conviction be liable to a fine not exceeding ten pounds :

Provided that neither this section, nor any proceedings taken thereunder, shall affect any liability of any such person to be proceeded against by indictment for any indictable offence.

23 Failing to provide for safety of children at entertainments

- (1) Where there is provided in any building an entertainment for children, or an entertainment at which the majority of the persons attending are children, then, if the number of children attending the entertainment exceeds one hundred, it shall be the duty of the person providing the entertainment to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate, and to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and to take all other reasonable precautions for the safety of the children.
- (2) Where the occupier of a building permits, for hire or reward, the building to be used for the purpose of an entertainment, he shall take all reasonable steps to secure the observance of the provisions of this section.
- (3) If any person on whom any obligation is imposed by this section fails to fulfil that obligation, he shall be liable, on summary conviction, to a fine not exceeding, in the case of a first offence, fifty pounds, and in the case of a second or subsequent offence

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one hundred pounds, and also, if the building in which the entertainment is given is licensed under the Cinematograph Act, 1909, or under any of the enactments relating to the licensing of theatres and of houses and other places for music or dancing, the licence shall be liable to be revoked by the authority by whom the licence was granted.

- (4) A constable may enter any building in which he has reason to believe that such an entertainment as aforesaid is being, or is about to be, provided, with a view to seeing whether the provisions of this section are carried into effect, and an officer authorised for the purpose by an authority by whom licences are granted under any of the enactments referred to in the last foregoing subsection shall have the like power of entering any building so licensed by that authority.
- (5) It shall be the duty of the council of any county or burgh to institute proceedings for any contravention of this section in a building within such county or burgh.
- (6) This section shall not apply to any entertainment given in a private dwelling-house.

Special Provisions as to Prosecutions for Offences specified in First Schedule

24 Power to take offenders into custody

- (1) Any constable may take into custody, without warrant—
 - (a) any person who within his view commits any of the offences mentioned in the First Schedule to this Act, if the constable does not know and cannot ascertain his name and address ;
 - (b) any person who has committed, or whom he has reason to believe to have committed, any of the offences mentioned in the First Schedule to this Act, if the constable does not know and cannot ascertain his name and address or has reasonable ground for believing that he will abscond.
- (2) Where, under the powers conferred by this section, a constable arrests any person without warrant, the superintendent or inspector of police or an officer of police of equal or superior rank, or the officer in charge of the police station to which the person is brought, shall, unless in his belief the release of the person would tend to defeat the ends of justice, or to cause injury or danger to the child or young person against whom the offence is alleged to have been committed, release the person arrested on his entering into an obligation to attend at the hearing of the charge or on his finding bail for such amount as may in the judgment of the officer of police be required to secure his attendance.

25 Mode of charging offences and limitation of time

- (1) Where a person is charged with committing any of the offences mentioned in the First Schedule to this Act in respect of two or more children or young persons, the same complaint or indictment may charge the offence in respect of all or any of them, but the person charged shall not, if he is summarily convicted, be liable to a separate penalty in respect of each child or young person except upon separate complaints.
- (2) The same complaint or indictment may also charge any person as having the custody, charge, or care, alternatively or together, and may charge him with the offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, and may charge him with committing all or any of those offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together, but when

those offences are charged together the person charged shall not, if he is summarily convicted, be liable to a separate penalty for each.

- (3) A person shall not be summarily convicted of an offence mentioned in the First Schedule to this Act, unless the offence was wholly or partly committed within six months before the proceedings against him in respect of the offence were commenced; but, subject as aforesaid, evidence may be taken of acts constituting, or contributing to constitute, the offence, and committed at any previous time.
- (4) When any offence mentioned in the First Schedule to this Act charged against any person is a continuous offence, it shall not be necessary to specify in the complaint or indictment the date of the acts constituting the offence.

26 Evidence of husband or wife of accused person

As respects proceedings against any person for any of the offences mentioned in the First Schedule to this Act, the Criminal Evidence Act, 1898, shall apply as if the Schedule to that Act included references to the enactment under which the proceedings are taken.

Supplemental

27 Interpretation of Part II

For the purposes of this Part of this Act—

Any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain him shall be presumed to have the custody of him, and as between father and mother the father shall not be deemed to have ceased to have the custody of him by reason only that he has deserted, or otherwise does not reside with, the mother and the child or young person;

Any person to whose charge a child or young person is committed by any person who has the custody of him shall be presumed to have charge of the child or young person;

Any other person having actual possession or control of a child or young person shall be presumed to have the care of him.

PART III

EMPLOYMENT

General Provisions as to Employment

28 Restrictions on employment of children

- (1) Subject to the provisions of this section and of any byelaws made thereunder, no child shall be employed—
 - (a) so long as he is under the age of twelve years; or
 - (b) before the close of school hours on any day on which he is under obligation to attend school; or

- (c) before six o'clock in the morning on any day or after seven o'clock in the evening on any day during the period from the first day of October to the thirty-first day of March, or after eight o'clock in the evening on any day during the period from the first day of April to the thirtieth day of September; or
 - (d) for more than two hours on any day on which he is under obligation to attend school; or
 - (e) for more than two hours on any Sunday; or
 - (f) to lift, carry or move anything so heavy as to be likely to cause injury to him.
- (2) An education authority may make byelaws with respect to the employment of children, and any such byelaws may distinguish between children of different ages and sexes and between different localities, trades, occupations and circumstances, and may contain provisions—
- (a) authorising—
 - (i) the employment of children under the age of twelve years (notwithstanding anything in paragraph (a) of the last foregoing subsection) by their parents or guardians in light agricultural or horticultural work;
 - (ii) the employment of children (notwithstanding anything in paragraph (b) of the last foregoing subsection) for not more than one hour before the commencement of school hours on any day on which they are under obligation to attend school;
 - (b) prohibiting absolutely the employment of children in any specified occupation;
 - (c) prescribing—
 - (i) the age below which children are not to be employed;
 - (ii) the number of hours in each day, or in each week, for which, and the times of day at which, they may be employed;
 - (iii) the intervals to be allowed to them for meals and rest;
 - (iv) the holidays or half-holidays to be allowed to them;
 - (v) any other conditions to be observed in relation to their employment;
 so, however, that no such byelaws shall modify the restrictions contained in the last foregoing subsection save in so far as is expressly permitted by paragraph (a) of this subsection, and any restriction contained in any such byelaws shall have effect in addition to the said restrictions.
- (3) Nothing in any byelaw made under this section shall prevent a child from taking part in an entertainment under and in accordance with the provisions of a licence granted and in force under the provisions of this Part of this Act.

29 Power of education authority to make byelaws with respect to employment of persons under eighteen other than children

- (1) Subject to the provisions of this section, an education authority may make byelaws with respect to the employment of persons under the age of eighteen years other than children, and any such byelaws may distinguish between persons of different ages and sexes, and between different localities, trades, occupations and circumstances, and may contain provisions prescribing—
- (a) the number of hours in each day or in each week for which, and the time of day at which, they may be employed;

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- (b) the intervals to be allowed to them for meals and rest;
 - (c) the holidays or half-holidays to be allowed to them;
 - (d) any other conditions to be observed in relation to their employment.
- (2) Nothing in this section shall empower an education authority to make byelaws with respect to—
- (a) employment in or about the delivery, collection, or transport of goods, except in the capacity of van boy, errand boy, or messenger;
 - (b) employment in or in connection with factories, workshops, mines, quarries, shops, or offices, except in the capacity of van boy, errand boy, or messenger;
 - (c) employment in the building or engineering trades, except in the capacity of van boy, errand boy, or messenger;
 - (d) employment in agriculture;
 - (e) employment in domestic service, except as non resident daily servant;
 - (f) employment in any ship or boat registered in the United Kingdom as a British ship or in any British fishing boat entered in the fishing boat register.
- (3) This section shall not come into operation until such date as may be appointed by an order of the Secretary of State, and the Secretary of State shall not make such an order until a draft thereof has been laid before both Houses of Parliament and has been approved by resolutions passed in the same session of Parliament by both Houses.

30 Street trading

- (1) No person under the age of seventeen years shall engage or be employed in street trading :
- Provided that byelaws made under this section may permit young persons who have not attained the age of seventeen years to be employed by their parents in street trading.
- (2) An education authority may make byelaws regulating or prohibiting street trading by persons under the age of eighteen years, and byelaws so made may distinguish between persons of different ages and sexes and between different localities, and may contain provisions—
- (a) forbidding any such person to engage or be employed in street trading unless he holds a licence granted by the authority, and regulating the conditions on which such licences may be granted, suspended, and revoked;
 - (b) determining the days and hours during which, and the places at which, such persons may engage or be employed in street trading;
 - (c) requiring such persons so engaged or employed to wear badges;
 - (d) regulating in any other respect the conduct of such persons while so engaged or employed.

31 Penalties and legal proceedings in respect of general provisions as to employment

- (1) If a person is employed in contravention of any of the foregoing provisions of this Part of this Act, or of the provisions of any byelaw made thereunder, the employer and any person (other than the person employed) to whose act or default the contravention is attributable shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds or, in the case of a second or subsequent offence, not exceeding twenty pounds:

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Provided that, if proceedings are brought against the employer, the employer, upon complaint duly laid by him and on giving to the prosecutor not less than three days' notice of his intention, shall be entitled to have any person (other than the person employed) to whose act or default he alleges that the contravention was due, brought before the court as a party to the proceedings, and if, after the contravention has been proved, the employer proves to the satisfaction of the court that the contravention was due to the act or default of the said other person, that person may be convicted of the offence; and if the employer further proves to the satisfaction of the court that he has used all due diligence to secure that the provisions in question should be complied with, he shall be acquitted of the offence.

- (2) Where an employer seeks to avail himself of the proviso to the last foregoing subsection—
 - (a) the prosecutor shall have the right to cross examine him, if he gives evidence, and any "witness called by him in support of his charge against the other person, and to call rebutting evidence; and
 - (b) the court may make such order as it thinks fit for the payment of expenses by any party to the proceedings to any other party thereto.
- (3) A person under the age of eighteen years, who engages in street trading in contravention of the provisions of the last foregoing section, or of any byelaw made thereunder, shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding twenty shillings, or in the case of a second or subsequent offence, not exceeding forty shillings.

Entertainments and Performances

32 Restrictions on children taking part in entertainments

- (1) Subject to the provisions of this section a child shall not, except under and in accordance with the provisions of a licence granted and in force thereunder, take part in any entertainment in connection with which any charge, whether for admission or not, is made to any of the audience; and every person who causes or procures a child, or being his parent or guardian allows him, to take part in an entertainment in contravention of this section, shall, on conviction by a court of summary jurisdiction, be liable to a fine not exceeding five pounds or, in the case of a second or subsequent offence, not exceeding twenty pounds.
- (2) Subject as hereinafter provided and without prejudice to the provisions of this Part of this Act and any byelaws made thereunder with respect to employment, a licence under this section shall not be necessary for a child to take part in an entertainment if—
 - (a) he has not during the preceding six months taken part on more than six occasions in entertainments in connection with which any such charge as aforesaid was made; and
 - (b) the net proceeds of the entertainment are devoted to purposes other than the private profit of the promoters :

Provided that this subsection shall not apply in the case of an entertainment given in premises which are licensed for the sale of any exciseable liquor unless either—

- (i) those premises are also licensed for the public performance of stage plays or for public music, singing or dancing; or

- (ii) special authority for the child to take part in the entertainment has been granted in writing under the hands of two justices of the peace.
- (3) Subject to such restrictions and conditions as may be prescribed by rules made by the Scottish Education Department, and without prejudice to the provisions of this Part of this Act with respect to employment, an education authority may grant a licence for a child who has attained the age of twelve years and is residing in their area to take part in any specified entertainment or series of entertainments, whether within or without that area :
- Provided that—
- (a) no licence shall be granted unless the education authority are satisfied that the child is fit to take part in the entertainment, or series of entertainments, and that proper provision has been made to secure his health and kind treatment; and
- (b) no licence shall be granted in respect of any entertainment which is to take place on a Sunday.
- (4) The holder of a licence under this section shall, at least seven days before the child takes part in any entertainment, furnish to the education authority within whose area the entertainment is to take place particulars of the licence and such other information as the Scottish Education Department may by rules prescribe and, if he fails so to do, he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.
- (5) If any restriction or condition contained in a licence under this section is not observed, the licence may be revoked by any education authority within whose area any entertainment to which it relates has taken or is about to take place; and, subject to any restrictions and conditions prescribed by rules made by the Scottish Education Department, any such licence may at the request of the holder of the licence be varied or extended by any such education authority as aforesaid.
- (6) If the applicant for, or holder of, a licence under this section feels aggrieved by any decision of an education authority, he may appeal to the Scottish Education Department, who may thereupon exercise any of the powers conferred on an education authority by this section.

33 Prohibition of persons under sixteen taking part in performances endangering life or limb

No person under the age of sixteen years shall take part in any public performance in which his life or limbs are endangered and every person who causes or procures such a person, or, being his parent or guardian, allows him, to take part in such a performance, shall be liable on summary conviction to a fine not exceeding ten pounds or, in the case of a second or subsequent offence, not exceeding fifty pounds.

34 Restrictions on training for performances of a dangerous nature

- (1) No person under the age of twelve years shall be trained to take part in performances of a dangerous nature, and no person under the age of sixteen years shall be trained to take part in such performances except under and in accordance with the terms of a licence granted and in force under this section; and every person who causes or procures a person, or being his parent or guardian allows him, to be trained to take part in performances of a dangerous nature in contravention of this section, shall be liable

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on conviction by a court of summary jurisdiction to a fine not exceeding five pounds or, in the case of a second or subsequent offence, not exceeding twenty pounds.

- (2) An education authority may grant a licence for a person who has attained the age of twelve years but is under the age of sixteen years to be trained to take part in performances of a dangerous nature.
- (3) An applicant for a licence under this section shall, at least seven days before making the application, give notice thereof to the chief constable for the district in which the person is, in accordance with the provisions of the licence, to be trained, and that officer may appear, or instruct some person to appear, before the authority and show cause why the licence should not be granted, and no licence shall be granted unless the authority are satisfied that notice has been so given.
- (4) A licence under this section shall specify the place or places at which the person is to be trained and shall embody such conditions as are, in the opinion of the authority, necessary for his protection, but a licence shall not be refused if the authority are satisfied that the person is fit and willing to be trained and that proper provision has been made to secure his health and kind treatment.
- (5) A licence under this section may, on cause being shown by any person, be revoked by the education authority which granted it.

Supplemental

35 Byelaws

- (1) A byelaw made under this Part of this Act shall not have effect until confirmed by the Secretary of State and shall not be so confirmed until at least thirty days after the education authority have published it in such manner as the Secretary of State directs.
- (2) Before confirming such a byelaw the Secretary of State shall consider any objections thereto which may be addressed to him by persons affected or likely to be affected thereby, and may order a local inquiry to be held, and where such an inquiry is held, the person holding it shall receive such remuneration as the Secretary of State determines, and that remuneration and the expenses of the inquiry shall be paid by the education authority.
- (3) Byelaws so made may, without prejudice to any other method of proof, be proved in the like manner as that in which byelaws made under the Public Health (Scotland) Act, 1897, by a local authority may be proved, and section one hundred and eighty-seven of that Act shall apply accordingly.

36 Powers of entry

- (1) If it is made to appear to a justice by the education authority, or by any constable, that there is reasonable cause to believe that the provisions of this Part of this Act or of a byelaw made thereunder are being contravened with respect to any person, the justice may by order under his hand addressed to an officer of the education authority, or to a constable, empower him to enter, at any reasonable time within forty-eight hours of the making of the order, any place in or in connection with which the person in question is, or is believed to be, employed, or as the case may be, in which he is, or is believed to be, taking part in an entertainment or performance, or being trained, and to make inquiries therein with respect to that person.

- (2) Any authorised officer of the education authority or any constable may at any time during the currency of a licence granted under this Part of this Act enter any place where the person to whom the licence relates is authorised by the licence to take part in an entertainment or to be trained, and may make inquiries therein with respect to that person.
- (3) Any person who obstructs any officer or constable in the due exercise of any powers conferred on him by or under this section, or who refuses to answer or answers falsely any inquiry authorised by or under this section to be made, shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds.

37 Interpretation of Part III

For the purposes of the foregoing provisions of this Part of this Act and of any byelaws made thereunder—

- (a) The expression " child " shall, as from the first day of September, nineteen hundred and thirty-nine, mean instead of a person under fourteen years of age, a person under fifteen years of age;
- (b) The expression " performance of a dangerous nature " includes all acrobatic performances and all performances as a contortionist;
- (c) The expression " street trading " includes the hawking of newspapers, matches, flowers and other articles, playing, singing or performing for profit, shoe-blackening and other like occupations carried on in streets or public places ;
- (d) A child under obligation to attend school shall be deemed to attain the age of fourteen or fifteen on the date prescribed for terminating school attendance next succeeding the fourteenth or fifteenth anniversary of his birth, as the case may be;
- (e) A person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour; and
- (f) A chorister taking part in a religious service or in a choir practice for a religious service shall not, whether he receives any reward or not, be deemed to be employed.

38 Savings

- (1) The provisions of this Part of this Act imposing restrictions on employment or on the taking part by children in entertainments, and the provisions of any byelaws made thereunder shall not apply in relation to a person who has attained the age of twelve years taking part in a performance, whether of the nature of an entertainment or not, which is being broadcast by the British Broadcasting Corporation, so long as the public are not admitted thereto on payment.
- (2) The said provisions shall not affect the provisions of the Education (Scotland) Acts, 1872 to 1936, with respect to attendance at school or continuation classes.
- (3) The said provisions shall not apply to a person detained in an approved school.
- (4) The said provisions shall be in addition to and not in substitution for any enactments relating to employment in factories, workshops, mines and quarries, or for giving effect to any international convention regulating employment.

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- (5) The said provisions shall, in their application to a person born on or before the first day of September, nineteen hundred and twenty-five, have effect as if paragraph (a) of the last foregoing section were omitted.
- (6) Sections twenty-eight and thirty-two of this Act shall not apply to a child in respect of whom an employment certificate granted under section two of the Education (Scotland) Act, 1936, is in force.
- (7) The provisions of paragraph (c) of subsection (1) of section twenty-eight of this Act as to the hour after which a child may not be employed shall not apply to employment in entertainments, in accordance with a licence granted under section thirty-two of this Act, of a child who has attained the age of fourteen years.

PART IV

PROTECTION OF CHILDREN AND YOUNG PERSONS IN RELATION TO CRIMINAL PROCEEDINGS

General Provisions as to Preliminary Proceedings

39 Separation of children and young persons from adults in police station, courts, and c

Arrangements shall be made for preventing a child or young person while detained in a police station, or while being conveyed to or from any criminal court, or while waiting before or after attendance in any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged, and for ensuring that a girl (being a child or young person) shall, while so detained, being conveyed, or waiting, be under the care of a woman.

40 Liberation or detention of children and young persons arrested

- (1) Where a person apparently under the age of seventeen years is apprehended, with or without warrant, and cannot be brought forthwith before a court of summary jurisdiction, a superintendent or inspector of police, or other officer of police of equal or superior rank, or the officer in charge of the police station to which he is brought, shall inquire into the case, and may liberate him on an obligation that he will attend at the hearing of the charge being entered into by him or his parent or guardian or on bail being found by him or his parent or guardian, for such an amount as will, in the opinion of the officer, secure his attendance at the hearing of the charge, and shall so liberate him unless—
 - (a) the charge is one of homicide or other grave crime; or
 - (b) it is necessary in his interest to remove him from association with any reputed criminal or prostitute; or
 - (c) the officer has reason to believe that his liberation would defeat the ends of justice.
- (2) Where a person apparently under the age of seventeen years having been apprehended is not so liberated as aforesaid, the officer of police shall cause him to be detained in a remand home until he can be brought before a court of summary jurisdiction, unless the officer certifies—

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- (a) that it is impracticable to do so; or
- (b) that he is of so unruly a character that he cannot safely be so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the court before which he is brought.

41 Committal to custody in remand home

- (1) Any court, on remanding or committing for trial a child or young person who is not liberated on bail, shall, instead of committing him to prison, commit him to custody in a remand home named in the commitment, to be there detained for the period for which he is remanded or until he is liberated in due course of law :

Provided that, in the case of a young person, it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

- (2) A commitment under this section may be varied, or, in the case of a young person who proves to be of so unruly a character that he cannot safely be detained in such custody, or to be of so depraved a character that he is not a fit person to be so detained, revoked, by the court which made the order, or if application cannot conveniently be made to that court, by a court of summary jurisdiction having jurisdiction in the place where the court which made the order sat, and if it is revoked the young person may be committed to prison.

42 Attendance at court of parent of child or young person charged with an offence, and c

- (1) Where a child or young person is charged with any offence or is for any other reason brought before a court, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.
- (2) Where the child or young person is arrested or taken to a place of safety, the constable by whom he is arrested or the officer of police in charge of the police station to which he is brought, or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the court before which the child or young person will appear.
- (3) For the purpose of enforcing the attendance of a parent or guardian and enabling him to take part in the proceedings and enabling orders to be made against him, rules may be made under section sixteen of the Summary Jurisdiction (Scotland) Act, 1908, for applying, with the necessary adaptations and modifications, such of the provisions of the Summary Jurisdiction (Scotland) Acts as appear appropriate for the purpose.
- (4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person :

Provided that, if that person is not the father, the attendance of the father may also be required.

- (5) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

43 Notice to probation officer and education authority of charges against and applications relating to children and young persons

- (1) Where a child or young person is to be brought before a court of summary jurisdiction in respect of an offence alleged to have been committed by him, or is to be brought before a juvenile court as being in need of care or protection, the responsible person (as hereinafter defined) shall forthwith notify the day and hour when, and the nature of the charge or other grounds on which, the child or young person is to be brought before the court—
- (a) to the probation officer, or one of the probation officers, for the probation area in which the court will sit; and
 - (b) to the education authority for the area in which the child or young person is resident, or, if it is not known where he is resident, to the education authority for the area, or for any one of the areas, in which the offence is alleged to have been committed or the circumstances justifying an application to the court are alleged to have arisen:

Provided that no such notification need be given to an education authority where the child or young person is charged or brought before the court by an education or poor law authority.

For the purposes of this subsection, the expression "responsible person" means, in a case where the child or young person is accused of an offence, the chief constable, and in any other case, the person bringing the child or young person before the court.

- (2) An education authority who have received a notification under the last foregoing subsection, and an education or poor law authority who themselves charge any child or young person with any offence, or bring any child or young person before a juvenile court as being in need of care or protection shall, except in cases which appear to them to be of a trivial nature, make such investigations and render available to the court such information as to the home surroundings, school record, health, and character of the child or young person and, in proper cases, as to available approved schools, as appear to them to be likely to assist the court:

Provided that an education authority shall be under no obligation to make investigations as to the home surroundings of children or young persons in any probation area in which by direction of the probation committee arrangements have been made for such investigations to be made by a probation officer.

General Provisions as to Proceedings in Court

44 Prohibition on children being present in court during the trial of other persons

No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purposes of justice; and any child present in court when under this section he is not to be permitted to be so shall be ordered to be removed:

Provided that this section shall not apply to messengers, clerks, and other persons required to attend at any court for purposes connected with their employment.

45 Power to clear court while child or young person is giving evidence in certain cases

- (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness:

Provided that nothing in this section shall authorise the exclusion of bona fide representatives of a newspaper or news agency.

- (2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

46 Power to prohibit publication of certain matter in newspapers

- (1) In relation to any proceedings in any court which arise out of any offence against, or any conduct contrary to, decency or morality, the court may direct that—

(a) no newspaper report of the proceedings shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein;

(b) no picture shall be published in any newspaper as being or including a picture of any child or young person so concerned in the proceedings as aforesaid;

except in so far (if at all) as may be permitted by the direction of the court.

- (2) Any person who publishes any matter in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding fifty pounds.

Special Procedure with regard to Offences specified in First Schedule

47 Warrant to search for or remove a child or young person

- (1) If on an application to a justice by any person who, in the opinion of the justice, is acting in the interests of a child or young person, it appears to the justice on information on oath that there is reasonable cause to suspect—

(a) that the child or young person has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of the justice, in a manner likely to cause him unnecessary suffering, or injury to health; or

(b) that any offence mentioned in the First Schedule to this Act has been or is being committed in respect of the child or young person,

the justice may issue a warrant authorising any constable named therein to search for the child or young person, and, if it is found that he has been or is being assaulted, ill-treated, or neglected in manner aforesaid, or that any such offence as aforesaid has

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been or is being committed in respect of him, to take him to and detain him in a place of safety, until he can be brought before a juvenile court, or authorising any constable to remove him with or without search to a place of safety and detain him there until he can be brought before a juvenile court.

- (2) A justice issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of the child or young person to be apprehended and brought before the sheriff, and proceedings to be taken against him according to law.
- (3) Any constable authorised by warrant under this section to search for any child or young person, or to remove any child or young person with or without search, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove him therefrom.
- (4) Every warrant issued under this section shall be addressed to and executed by a constable, who shall be accompanied by the person making the application if that person so desires, unless the justice by whom the warrant is issued otherwise directs, and may also, if the justice by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.
- (5) It shall not be necessary in any application, information or warrant under this section to name the child or young person.

48 Power to proceed with case in absence of child or young person

Where in any proceedings with relation to any of the offences mentioned in the First Schedule to this Act, the court is satisfied that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child or young person.

Principles to be observed by all Courts in dealing with Children and Young Persons

49 General considerations

- (1) Every court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.
- (2) A court shall not order a child under the age of ten years to be sent to an approved school unless for any reason, including the want of a fit person of his own religious persuasion who is willing to undertake the care of him, the court is satisfied that he cannot suitably be dealt with otherwise.

Juvenile Courts

50 Jurisdiction of juvenile courts

- (1) Courts of summary jurisdiction constituted in accordance with the provisions of the next following section shall sit so often as is necessary for the following purposes, that is to say—
- (i) to hear charges against children and young persons;
 - (ii) to hear proceedings under section seventy of the Education (Scotland) Act, 1872, or under section four of the Day Industrial Schools (Scotland) Act, 1893;
 - (iii) to exercise any other jurisdiction conferred on juvenile courts by this or any other Act;

and such courts so constituted and sitting for any such purpose shall be known as juvenile courts and, in whatever place sitting, shall for the purposes of such charges and proceedings have the like jurisdiction as the sheriff sitting as a court of summary jurisdiction, but as regards power to award imprisonment, to impose a fine or to ordain the finding of caution and in all other respects shall be deemed to be justice of the peace courts of summary jurisdiction.

A charge made jointly against a child or young person and a person who has attained the age of seventeen years shall not, for the purposes of this section, be treated as a charge against a child or young person.

- (2) Subject as hereinafter provided no such charge or proceeding as is mentioned in the last foregoing subsection shall be heard by a court of summary jurisdiction which is not a juvenile court :

Provided that—

- (i) this subsection shall not apply where a child or young person is charged with an offence, and a person who has attained the age of seventeen years is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence; and
 - (ii) nothing in this subsection shall affect the power of the Lord Advocate to order proceedings to be taken in the High Court of Justiciary or the sheriff court on any such charge as aforesaid.
- (3) A juvenile court shall have jurisdiction to make an adoption order under the Adoption of Children (Scotland) Act, 1930, if either the applicant or the child resides at the date of the application within the area for which the court acts, and the provisions of the said Act shall apply as regards the juvenile court in like manner as they apply as regards the sheriff court.
- (4) (a) This section shall not apply except in any area (being a county or a part of a county) to which the Secretary of State by order under his hand directs that the section shall apply. Any such order may be varied or revoked by a subsequent order.
- (b) In this subsection the expression " county" includes a county of a city, and any burgh (not being a county of a city) shall be deemed to be included in and form part of the county in which it is situated.
- (5) In any place in which this section does not apply, any power or duty conferred or imposed on a juvenile court may be exercised or performed by any court of summary

jurisdiction having jurisdiction in that place, and the provisions of this Act with regard to juvenile courts (other than those relating to the constitution of such courts) shall apply to any court of summary jurisdiction sitting for the purpose of hearing any such charge or proceeding as is mentioned in subsection (1) of this section, and as regards any such place the expression "juvenile court" shall mean a court of summary jurisdiction sitting for such purpose.

51 Constitution of juvenile courts

- (1) Subject to the provisions of the next following subsection, a panel of justices specially qualified for dealing with juvenile cases shall be formed for the purposes of this Act in every area in which section fifty of this Act applies, and no justice shall be qualified to sit as a member of a juvenile court unless he is a member of such a panel.
- (2) The Secretary of State, after considering any representations made to him by the justices for any such areas as aforesaid, may by order direct that there shall be only one panel for any two or more such areas and may by the same or a subsequent order provide for sittings of juvenile courts constituted from that panel being held at such places, whether within or without the area for which the court is for the time being acting, as may be specified in the order.

An order under this subsection may contain such supplemental, incidental and consequential provisions as appear to the Secretary of State to be necessary or proper for the purposes of the order, and may be varied or revoked by a subsequent order.

- (3) Rules made by the Lord Chancellor shall provide—
 - (a) for the formation and periodical revision of panels of justices;
 - (b) for limiting the number of justices who may sit as members of any juvenile court, and for the manner in which they are to be selected;
 - (c) for one of the justices acting as chairman of the court and for the manner in which the chairman is to be selected.
- (4) Any rule purporting to be made by the Lord Chancellor under this section shall be laid before both Houses of Parliament as soon as may be after it is made, if Parliament be then sitting, or if Parliament be not then sitting, within one month after the commencement of the next Session of Parliament, and shall be judicially noticed.

52 Procedure in juvenile courts

- (1) A juvenile court shall, subject as hereinafter provided, sit either in a different building or room from that in which sittings of courts other than juvenile courts are held, or on different days from those on which sittings of such other courts are held; and no person shall be present at any sitting of a juvenile court except—
 - (a) members and officers of the court;
 - (b) parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case;
 - (c) bona fide representatives of newspapers or news agencies;
 - (d) such other persons as the court may specially authorise to be present.
- (2) The Lord Justice General may make rules for regulating the procedure in juvenile courts, and such of the provisions of the Summary Jurisdiction (Scotland) Acts as regulate procedure shall have effect subject to any rules so made.

53 Miscellaneous provisions as to powers of juvenile and other courts

- (1) A juvenile court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child or young person may, if it thinks fit to do so, proceed with the hearing and determination of the charge or application, notwithstanding that it is discovered that the person in question is not a child or young person.
- (2) Where in the course of any proceedings in any court of summary jurisdiction other than a juvenile court it appears that the person charged or to whom the proceedings relate is under the age of seventeen years, nothing in the foregoing provisions of this Part of this Act shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.
- (3) Where the court before which any person is bound by his bond under the Probation of Offenders Act, 1907, to appear is a juvenile court, the attainment by him of the age of seventeen years shall not deprive that court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his bond or of jurisdiction to vary or discharge the bond.
- (4) When a juvenile court has remanded a child or young person for information to be obtained with respect to him, any juvenile court acting for the same place—
 - (a) may in his absence extend the period for which he is remanded, so, however, that he appears before a court or a justice at least once in every twenty-one days;
 - (b) when the required information has been obtained, may deal with him finally; and where the court by which he was originally remanded has recorded a finding that he is guilty of an offence charged against him, it shall not be necessary for any court which subsequently deals with him under this subsection to hear evidence as to the commission of that offence, except in so far as it may consider that such evidence will assist the court in determining the manner in which he should be dealt with.
- (5) No direction, whether contained in this or any other Act, that a charge shall be brought before a juvenile court, shall be construed as restricting the powers of any justice or justices to entertain an application for bailor for a remand, and to hear such evidence as may be necessary for that purpose.

54 Restrictions on newspaper reports of proceedings in juvenile courts

- (1) Subject as hereinafter provided, no newspaper report of any proceedings in a juvenile court shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in those proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein, nor shall any picture be published in any newspaper as being or including a picture of any child or young person so concerned in any such proceedings as aforesaid :

Provided that the court or the Secretary of State may in any case, if satisfied that it is in the interests of justice so to do, by order dispense with the requirements of this section to such extent as may be specified in the order.

- (2) Any person who publishes any matter in contravention of this section shall on summary conviction be liable in respect of each offence to a fine not exceeding fifty pounds.

55 Age of criminal responsibility

It shall be conclusively presumed that no child under the age of eight years can be guilty of any offence.

56 Restrictions on punishment of children and young persons

- (1) A child shall not be ordered to be imprisoned or be sent to penal servitude for any offence, or be committed to prison in default of payment of a fine, damages, or expenses.
- (2) A young person shall not be sent to penal servitude for any offence.
- (3) A young person shall not be ordered to be imprisoned for an offence, or be committed to prison in default of payment of a fine, damages, or expenses, unless the court certifies that he is of so unruly a character that he cannot be detained in a remand home or that he is of so depraved a character that he is not a fit person to be so detained.

57 Punishment of certain grave crimes

- (1) Sentence of death shall not be pronounced on or recorded against a person under the age of eighteen years, but in lieu thereof the court shall sentence him to be detained during His Majesty's pleasure, and, if so sentenced, he shall, notwithstanding anything in the other provisions of this Act, be liable to be detained in such place and under such conditions as the Secretary of State may direct.
- (2) Where a child or young person is convicted on indictment of an attempt to murder, or of culpable homicide, or of wounding with intent to do grievous bodily harm, and the court is of opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence has been passed, the child or young person shall, during that period, notwithstanding anything in the other provisions of this Act, be liable to be detained in such place and on such conditions as the Secretary of State may direct.
- (3) A person detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.
- (4) Any person so detained as aforesaid may, at any time, be discharged by the Secretary of State on licence.

Such a licence may be in such form and may contain such conditions as the Secretary of State may direct, and may at any time be revoked or varied by the Secretary of State.

Where a licence has been revoked, the person to whom the licence related shall return to such place as the Secretary of State may direct, and if he fails to do so may be apprehended without warrant and taken to that place.

58 Substitution of custody in remand home for imprisonment

Where a child or young person is found guilty of an offence punishable in the case of an adult with penal servitude or imprisonment, or where a child or young person would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damages, or expenses, the court may, if it considers that none of the other methods by which the case may legally be dealt with is suitable, order that he be committed to

custody in a remand home named in the order for such term as may be specified in the order, not exceeding the term for which he might, but for this Act, be ordered to be imprisoned or committed to prison, nor in any case exceeding one month.

59 Power to order parent to pay fine, and c. instead of child or young person

- (1) Where a child or young person is charged with an offence for the commission of which a fine, damages, or expenses may be imposed or awarded, if the court is of opinion that the case would be best met by the imposition or award of a fine, damages, or expenses, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or expenses imposed or awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.
- (2) In the case of a child or young person charged with any offence, the court may order his parent or guardian to give security for his good behaviour.
- (3) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.
- (4) Any sums ordered under this section, or on forfeiture of any such security as aforesaid, to be paid by a parent or guardian may be recovered from him by civil diligence or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

60 Power of other courts to remit juvenile offenders to juvenile courts

- (1) Any court by or before which a child or young person is found guilty of an offence other than homicide, may, if it thinks fit, remit the case to a juvenile court acting for the place where the offender was committed for trial, or, if he was not committed for trial, to a juvenile court acting either for the same place as the remitting court or for the place where the offender resides; and, where any such case is so remitted, the offender shall be brought before a juvenile court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.
- (2) No appeal shall lie against an order remitting a case to a juvenile court under this section, but nothing in this subsection shall affect any right of appeal against the verdict or finding on which such an order is founded.
- (3) A court by which an order remitting a case to a juvenile court is made under this section may give such directions as appear to be necessary with respect to the custody of the offender or for his liberation on bail until he can be brought before the juvenile court, and shall cause to be transmitted to the clerk of the juvenile court a certificate setting out the nature of the offence and stating that the offender has been found guilty thereof, and that the case has been remitted for the purpose of being dealt with under this section.

61 Power to send juvenile offenders to approved schools or to commit them to fit persons

- (1) Any court by or before which a child or young person is found guilty of an offence punishable in the case of an adult with imprisonment shall, in addition to any other powers exercisable by virtue of this or any other Act, have power—
 - (a) to order him to be sent to an approved school;
 - (b) to commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.
- (2) Where an order is made under this section committing a child or young person to the care of a fit person, a probation order may also be made under the Probation of Offenders Act, 1907.

62 Power of Secretary of State to send certain juvenile offenders to approved schools

The Secretary of State may by order direct that—

- (a) a person who is under the age of eighteen years and is undergoing detention in a Borstal institution; or
 - (b) a child or young person with respect to whom he is authorised to give directions under subsection (2) of section fifty-seven of this Act; or
 - (c) a young person who has been ordered to be imprisoned and has been pardoned by His Majesty on condition of his agreeing to undergo training in a school,
- shall be transferred or sent to and detained in an approved school specified in the order; and any such order shall be an authority for the detention of the person to whom it relates until such date as may be specified in the order:

Provided that the date to be so specified shall be not later than that on which he will in the opinion of the Secretary of State attain the age of nineteen years nor later—

- (a) in the case of a person who was undergoing detention in a Borstal institution, or was sentenced to detention under the said subsection (2), than the date on which his detention would have expired; or
- (b) in the case of a young person who has been ordered to be imprisoned and has been pardoned as aforesaid, than three years from the date as from which the order for his imprisonment began to run.

63 Miscellaneous provisions as to summary proceedings against juvenile offenders

- (1) The words " conviction " and " sentence " shall cease to be used in relation to children and young persons dealt with summarily and any reference in any enactment to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be.
- (2) Where a child or young person is himself ordered by a court of summary jurisdiction to pay expenses in addition to a fine, the amount of the expenses so ordered to be paid shall in no case exceed the amount of the fine.
- (3) In addition to any other register required by law, a separate register of juvenile offenders found guilty of offences and of juvenile offenders discharged on bond or put on probation under the Probation of Offenders Act, 1907, shall be kept for every summary court by the chief constable or other person charged with the duty of keeping

registers of convictions. The register shall apply to offenders of such age, and shall include such particulars, as may be directed by the Secretary of State, and it shall be the duty of the keeper of the register, within seven days after any such offender has been dealt with by the court, to transmit a copy of the entry relating to the offender to the education authority for the area in which the offender resides.

64 Amendment of certain Acts in relation to child or young person

- (1) In subsection (5) of section six of the Probation of Offenders Act, 1907 (which, as it applies to Scotland, relates to the powers of the court in a case where a person bound by a bond under the said subsection has failed to observe a condition of the bond) for the words " if the case was one in which the court in the first " instance might, under section fifteen of the Industrial " Schools Act, 1866, have ordered the offender to be " sent to a certified industrial school and the offender " is still apparently under the age of twelve years," there shall be substituted the words " if the case was one " in which the court had power to make an order sending " him to an approved school, and he is still under the " age of seventeen."
- (2) Notwithstanding anything in subsection (2) of section two of the said Act (as amended by section eight of the Criminal Justice Administration Act, 1914) it shall not be made a condition of a bond under the said Act that a child or young person shall reside in any institution which is not subject to inspection by the Secretary of State unless he is while residing in the institution to be employed, or to seek employment, outside it.
- (3) Where it is made a condition of a bond under the said Act that a child or young person shall reside in any institution, the court by which the probation order is made shall forthwith give notice of the terms of the order to the Secretary of State.
- (4) Where the residence of a child or young person in any institution has been made a condition of a bond under the said Act, the Secretary of State may at any time, if he considers that it is in the interests of the child or young person so to do, cause an application to be made to the court before which the child, or young person is bound by his bond to appear, and thereupon that court may vary the conditions of the bond by excluding therefrom the condition as to residence, or by substituting the name of some other institution.

Children and Young Persons in need of Care or Protection

65 Definition of "in need of care or protection"

- (1) For the purposes of this Act, a child or young person in need of care or protection means a person who comes within any of the descriptions hereinafter mentioned, that is to say—
 - (a) a child or young person who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is falling into bad associations, or exposed to moral danger, or beyond control; or
 - (b) a child or young person—
 - (i) in respect of whom any of the offences mentioned in the First Schedule to this Act has been committed; or
 - (ii) who is a member of the same household as a child or young person in respect of whom such an offence has been committed; or

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- (iii) who is a member of the same household as a person who has been convicted of such an offence in respect of a child or young person; or
 - (iv) who, being a female, is a member of the same household as a female in respect of whom an offence which constitutes the crime of incest has been committed by a member of that household,
- and who, in any such case as aforesaid, requires care or protection; or
- (c) a child in respect of whom an offence has been committed under section twenty-one of this Act (which relates to the punishment of vagrants preventing children from receiving education).
- (2) For the purposes of this section, the fact that a child or young person is found destitute, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing or offering anything for sale), or is found loitering for the purpose of so begging or receiving alms, shall (without prejudice to the generality of the words of paragraph (a) of the last foregoing subsection) be evidence that he is exposed to moral danger.

66 Powers of juvenile courts in respect of children and young persons in need of care or protection

- (1) Any education authority, constable or authorised person having reasonable grounds for believing that a child or young person is in need of care or protection may bring him before a juvenile court; and it shall be the duty of an education authority to bring before a juvenile court any child or young person residing or found in their area who appears to them to be in need of care or protection unless they are satisfied that the taking of proceedings is undesirable in his interests, or that proceedings are about to be taken by some other person.
- (2) If a juvenile court is satisfied that any person brought before it under the last foregoing subsection is a child or young person in need of care or protection, the court may—
 - (a) order him to be sent to an approved school; or
 - (b) commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him; or
 - (c) order his parent or guardian to enter into a bond to exercise proper care and guardianship; or
 - (d) without making any other order, or in addition to making an order under either of the last two foregoing paragraphs, make an order placing him for a specified period, not exceeding three years, under the supervision of a probation officer, or of some other person appointed for the purpose by the court.
- (3) The Summary Jurisdiction (Scotland) Acts shall apply in relation to bonds under subsection (2) of this section as they apply in relation to bonds to be of good behaviour, and where a bond under the said subsection (2) is adjudged to be forfeited, the court, if it thinks fit, instead of adjudging the person bound thereby to pay the sum for which he is bound, may adjudge him to pay part only of the said sum or may remit payment thereof.
- (4) For the purposes of this section, the expression " authorised person" means any officer of a society which is authorised by general or special order of the Scottish Education Department to institute proceedings under this section, and any person who is himself so authorised.

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67 Powers of other courts with respect to last foregoing section

- (1) Any court by or before which a person is convicted of having committed in respect of a child or young person any of the offences mentioned in the First Schedule to this Act or any offence under section twenty-one of this Act, may—
 - (a) direct that the child or young person be brought before a juvenile court with a view to that court making such order under the last foregoing section as may be proper; or
 - (b) if satisfied that the material before the court is sufficient to enable it properly to exercise jurisdiction, may make any order which the juvenile court might make.
- (2) Where any court has, under this section, directed that a child or young person be brought before a juvenile court, it shall be the duty of the education authority in whose area he was residing or found to bring him before such a court under subsection (1) of the last foregoing section.

Refractory Children and Young Person

68 Power of parent or guardian to bring child or young person before juvenile court

Where the parent or guardian of a child or young person proves to a juvenile court that he is unable to control the child or young person, the court, if satisfied—

- (a) that it is expedient so to deal with the child or young person; and
- (b) that the parent, or guardian understands the results which will follow from and consents to the making of the order,

may order the child or young person to be sent to an approved school, or may order him to be placed for a specified period, not exceeding three years, under the supervision of a probation officer or of some other person appointed for the purpose by the court :

Provided that an order that the child or young person be sent to an approved school shall not be made unless the education authority within whose area he is resident agree.

69 Power of poor law authority to bring child or young person before juvenile court

Where a poor law authority satisfy a juvenile court that any child or young person maintained in or boarded out from a school or other institution belonging to the authority is refractory, and that it is expedient that he should be sent to an approved school, the court may order him to be sent to such a school.

Supplemental

70 Supervision by probation officers or other persons

- (1) Where a court makes an order under any of the foregoing provisions of this Part of this Act placing a child or young person under the supervision of a probation officer or of some other person, that officer or person shall, while the order remains in force, visit, advise and befriend him and, when necessary, endeavour to find him suitable employment and may, if it appears necessary in his interests so to do, at any time while the order remains in force and he is under the age of seventeen years, bring him before

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a juvenile court, and that court may, if it thinks that it is desirable in his interests so to do, order him to be sent to an approved school or commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

- (2) Where the probation officer or other person named in an order as aforesaid placing a child or young person under supervision has died or is unable for any reason to carry out his duties, or where it is made to appear that it is for any reason desirable that another person should be appointed in the place of that officer or person, a juvenile court may appoint another probation officer or person to act in his place.
- (3) For the purposes of the provisions of the Probation of Offenders (Scotland) Act, 1931, relating to the salaries, remuneration and expenses of probation officers, an order as aforesaid placing a child or young person under supervision shall be deemed to be a probation order.

71 Interim detention of child or young person in place of safety

- (1) A constable, or any person authorised by of any court or by any justice, may take to a place of safety any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Act has been or is believed to have been committed, or who is about to be brought before a juvenile court in accordance with any of the last five foregoing sections, and a child or young person so taken to a place of safety, and any child or young person who has taken refuge in a place of safety, may be detained there until he can be brought before a juvenile court.
- (2) If a juvenile court before which any child or young person is brought is not in a position to decide whether any and, if so, what, order ought to be made under the last five foregoing sections, it may make such interim order as it thinks fit for his detention or continued detention in a place of safety, or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

An interim order under this subsection shall not remain in force for more than twenty-eight days; but if at the expiration of that period the court deems it expedient to do so, it may make a further interim order.

72 Regard to be had to religious persuasion of person sent to approved school

- (1) A court before making an approved school order with respect to any child or young person shall endeavour to ascertain his religious persuasion.
- (2) A court, or the Scottish Education Department, in determining the approved school to which a person is to be sent shall, where practicable, select a school for persons of the religious persuasion to which he belongs.
- (3) Where an order has been made sending a person to an approved school which is not a school for persons of the religious persuasion to which he belongs, his parent, guardian or nearest adult relative may apply—
 - (a) if the order was made by a court of summary jurisdiction, to a juvenile court acting for the same place; and
 - (b) in any other case, to the Scottish Education Department,
 to remove or send the person to an approved school for persons of his religious persuasion, and the court or Scottish Education Department shall, on proof of his religious persuasion and notwithstanding any declaration with respect thereto

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embodied in the approved school order, if any, relating to him, comply with the request of the applicant:

Provided that nothing in this subsection shall empower a court, or impose an obligation upon the Scottish Education Department, to comply with any such request as aforesaid unless the applicant has—

- (i) made his application before, or within thirty-days after, the person's arrival at the school; and
- (ii) named a school for persons of the religious persuasion in question and shown to the satisfaction of the court or Scottish Education Department that the managers thereof have accommodation available.

73 Corning into force of approved school orders

- (1) An approved school order may be made to take effect immediately, or its operation may be postponed to a later date specified in the order or to be subsequently specified by endorsement thereon in accordance with the provisions of this Act :

Provided that the operation of the order shall not be postponed except pending the completion of arrangements for the reception of the child or young person into a suitable school, or on account of his ill-health.

- (2) If an approved school order is not made to take effect immediately, or if at the time when such an order takes effect the child or young person cannot be sent to the school, the court which made the order or any other court which would have jurisdiction to make an endorsement thereon under the next following section may make an order committing him either to custody in any place to which he might be committed on remand, or to the custody of a fit person to whose care he might be committed under this Act, and, subject as hereinafter provided, that order shall have effect until he is sent to an approved school in pursuance of the approved school order :

Provided that an order made under this subsection shall not remain in force for more than twenty-eight days, but if at the expiration of that period any such court as aforesaid considers it expedient so to do, the court may make a further order under this subsection.

Any order made under this subsection may be made in the absence of the child or young person concerned.

74 Contents of approved school orders

- (1) Every approved school order shall contain a declaration—
 - (a) as to the age; and
 - (b) as to the religious persuasionof the child or young person with respect to whom it is made.
- (2) Every approved school order, other than an order made on the application of a poor law authority in their capacity as such or made by reason of the commission of an offence under section twenty-one of this Act (which relates to the punishment of vagrants preventing children from receiving education), shall name the education authority within whose area the child or young person was resident, or if that is not known, the education authority or one of the education authorities within whose area the offence was committed or the circumstances arose (as the case may be) rendering him liable to be sent to an approved school:

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Provided that—

- (a) in determining for the purposes of this subsection the place of residence of a child or young person, any period during which he resided in any place as an inmate of a school or other institution, or while boarded out under this Act by an education authority to whose care he has been committed, or in accordance with the conditions of a bond, shall be disregarded; and
 - (b) in the case of a child or young person not resident in Scotland, the order shall, instead of naming an education authority, state that he was resident outside Scotland.
- (3) Every approved school order which is made to take effect immediately shall—
- (a) specify the approved school to which the child or young person with respect to whom the order is made is first to be sent, being that one of the available schools (whether situate within the jurisdiction of the court making the order or not) which the court, after considering any representations made to it by the education authority concerned, considers to be most suitable to the case; and
 - (b) state whether the education or poor law authority, if any, named therein or the probation officer or the police authority is to be responsible for conveying to his school the child or young person with respect to whom the order is made.
- (4) Where an approved school order is not made to take effect immediately, then, if either the date to which its operation is postponed or the school to which the child or young person is to be sent or the authority or person who is to be responsible for conveying him, is not specified in the order, the date, school, authority, or person, as the case may be, shall be subsequently specified by endorsement thereon.
- (5) If for any reason a child or young person with respect to whom an approved school order has been made cannot be received into the approved school specified in or endorsed upon the order, another school may be specified by an endorsement or further endorsement thereon, as the case may be.
- (6) An endorsement under the foregoing provisions of this section may be made—
- (a) by the court which made the approved school order; or
 - (b) if the order was made by a court of summary jurisdiction, by a juvenile court acting for the same place; or
 - (c) if the order was made by a court not being a court of summary jurisdiction, by a juvenile court acting for the place where the child or young person was committed for trial, or if he was not committed for trial, by a juvenile court acting for the place within which he was resident;
- and any such endorsement may be made in the absence of the child or young person concerned.
- (7) An approved school order made on the application of a poor law authority in their capacity as such shall state that it is so made upon the application of that authority, and an approved school order made by reason of the commission of an offence under section twenty-one of this Act (which relates to the punishment of vagrants preventing children from receiving education) shall state that it is so made.

75 Duration of approved school orders

- (1) Where a court orders a child to be sent to an approved school, the order shall be an authority for his detention in an approved school until the expiration of a period of

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

three years from the date of the order and, if at the expiration of that period he is under the age of fifteen years, for his further detention until he attains that age.

- (2) Where a court orders a young person to be sent to an approved school, the order shall be an authority for his detention in an approved school—
 - (a) if at the date of the order he has not attained the age of sixteen years, until the expiration of a period of three years from the date of the order; and
 - (b) if at the date of the order he has attained the age of sixteen years, until he attains the age of nineteen years.

76 Conveyance of children or young persons to approved schools

- (1) The court which makes, or makes any endorsement upon, an approved school order shall cause it to be delivered to the authority or person responsible for conveying the child or young person to his school, and the person who conveys him to the school shall deliver the order to the headmaster or person for the time being in charge of the school.
- (2) The court by which an approved school order is made shall cause a record in the prescribed form, embodying all such information in the possession of the court with respect to the child or young person as is in the opinion of the court material to be known by the managers of the school, to be prepared and transmitted to the headmaster or person for the time being in charge of the school.
- (3) The education or poor law authority, probation officer or police authority, stated by any approved school order to be responsible for conveying a child or young person to his school, shall be responsible for conveying him there at the expense of the education or poor law authority, the probation committee, or police authority, as the case may be.
- (4) Where a child or young person has been ordered to be sent to an approved school, any person who harbours or conceals him after the time has come for him to go to his school shall on summary conviction be liable to be imprisoned for any term not exceeding two months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.
- (5) Where a person authorised to take a child or young person to an approved school is, when the time has come for him to go to his school, unable to find him or unable to obtain possession of him, a court of summary jurisdiction may, if satisfied by information on oath that some person named in the information can produce the child or young person, make an order requiring the person so named to attend at the court on such day as may be specified in the order and produce the child, or young person and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds.

77 Extension of period of detention in approved schools

If the managers of an approved school are satisfied that a person whose period of detention therein is, under the foregoing provisions of this Act, about to expire needs further care or training and cannot without it be placed in suitable employment, they may, if in the case of a person detained by order of a court the Scottish Education Department consent, and if in any other case the Secretary of State consents, detain such person for a further period not exceeding six months, so, however, that he is not detained beyond the date on which he will attain the age of nineteen years :

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

Provided that the powers conferred by this section shall not extend to a person who, having been a person undergoing detention in a Borstal institution or sentenced to detention under subsection (2) of section fifty-seven of this Act, is detained in an approved school by order of the Secretary of State.

78 Supervision and recall after expiration of order

- (1) A person sent to an approved school shall after the expiration of the period of his detention be under the supervision of the managers of his school—
- (a) if at the expiration of that period he has not attained the age of fifteen years, until he attains the age of eighteen years;
 - (b) if he has at the expiration of that period attained the age of fifteen years, for a period of three years or until he attains the age of twenty-one years, whichever may be the shorter period.

- (2) The managers may, and, if the Scottish Education Department so direct, shall, by notice in writing recall to the school any person under their supervision who is at the date of the recall under the age of nineteen years :

Provided that a person shall not be so recalled, unless in the opinion of the managers, or, as the case may be, of the Scottish Education Department, it is necessary in his interests to recall him.

- (3) A person who has been so recalled shall be released as soon as the managers think that he can properly be released, and in no case shall he be detained—
- (a) after the expiration of a period of three months, or of such longer period not exceeding six months as the Scottish Education Department may, after considering the circumstances of his case, direct; or
 - (b) after attaining the age of nineteen years.
- (4) The managers shall forthwith notify the Scottish Education Department of the recall of any person and shall state the reasons for his recall, and when the managers release any person so recalled they shall forthwith notify the Scottish Education Department that they have done so.
- (5) For the purposes of this Act, a person who is out under supervision from an approved school shall be deemed to be under the care of the managers of the school.

79 Provisions as to making, duration, and effect, of orders of committal to fit persons

- (1) Before making an order under this Act committing a child or young person to the care of a fit person, the court shall endeavour to ascertain the religious persuasion of the child or young person, and, in selecting the person to whose care the child or young person is to be committed, the court shall if possible select a person who is of the same religious persuasion as the child or young person or who gives an undertaking that he will be brought up in accordance with that religious persuasion.
- (2) Every order committing a child or young person to the care of a fit person shall contain a declaration—
- (a) as to the age; and
 - (b) as to the religious persuasion
- of the child or young person with respect to whom it is made.

- (3) Every order committing a child or young person to the care of a fit person shall, subject to the provisions of this Act, remain in force until he attains the age of eighteen years.
- (4) The person to whose care a child or young person is committed by any such order as aforesaid shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of his maintenance as if he were his parent, and the child or young person so committed shall continue in his care notwithstanding any claim by a parent or any other person.

80 Committal to local and other authorities as "fit persons"

- (1) The education authority shall for the purposes of the provisions of this Act relating to the making of orders committing children and young persons to the care of fit persons be deemed to be a fit person and accordingly orders may be made committing children and young persons to their care and they may undertake the care of children and young persons so committed.
- (2) An order may be made under this Act committing to the care of the Minister of Pensions, or of a person appointed by him, any child or young person for the care of whom it is the duty of the Minister under section nine of the War Pensions (Administrative Provisions) Act, 1918, to make provision, and accordingly in subsection (4) of that section the reference to an order made under section twenty-one or subsection (7) of section fifty-eight of the Children Act, 1908, shall be construed as including a reference to an order made under this Act.

PART V

REMAND HOMES, APPROVED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

Remand Homes

81 Provision of remand homes by local authorities

- (1) It shall be the duty of every local authority to provide for their area remand homes, which may be situate either within or without the area, and for that purpose they may arrange with the occupiers of any premises for the use thereof, or may themselves establish or join with another local authority in establishing such homes.
- (2) The authority or persons responsible for the management of any institution other than a prison may, subject, in the case of an institution supported wholly or partly out of public funds, to the consent of the Government department concerned, arrange with a local authority for the use of the institution, or any part thereof, as a remand home upon such terms as may be agreed.
- (3) A child or young person who may lawfully be remanded in custody to any place situated within the area of a local authority may be so remanded to any remand home, wherever situate, which is provided under this section for that area.
- (4) Nothing in this section shall be construed as requiring a local authority to provide additional remand homes for their area so long as any places of detention provided

under the Children Act, 1908, and available for use by the authority as remand homes remain suitable for that purpose and sufficient for the needs of the area.

82 Provisions as to custody of children and young persons in remand homes

- (1) The order or judgment in pursuance of which a child or young person is committed to custody in a remand home shall be delivered with the child or young person to the person in charge of the home and shall be a sufficient authority for his detention in the home in accordance with the tenor thereof.
- (2) A child or young person while so detained and while being conveyed to and from the remand home shall be deemed to be in legal custody.
- (3) The Secretary of State shall cause remand homes to be inspected, and may make rules as to the places to be used as remand homes, and as to their inspection, and as to the classification, treatment, employment and control of children and young persons detained in custody in a remand home, and for the children and young persons while so detained being visited from time to time by persons appointed in accordance with those rules.
- (4) A child or young person who escapes from a remand home may be apprehended without warrant, and brought back thereto, and any person who knowingly assists or induces a child or young person so to escape or knowingly harbours or conceals a child or young person who has so escaped, or prevents him from returning, shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

Approved Schools

83 Approval of schools

- (1) The managers of any school intended for the education and training of persons to be sent there in pursuance of this Act may apply to the Scottish Education Department to approve the school for that purpose, and the Scottish Education Department may, after making such inquiries as they think fit, approve the school for that purpose and issue a certificate of approval to the managers.
- (2) If at any time the Scottish Education Department are dissatisfied with the condition or management of an approved school, or consider its continuance as an approved school unnecessary, they may by notice served on the managers withdraw the certificate of approval of the school as from a date specified in the notice, not being less than six months after the date of the notice, and upon the date so specified (unless the notice is previously withdrawn) the withdrawal of the certificate shall take effect and the school shall cease to be an approved school:

Provided that the Scottish Education Department, instead of withdrawing the certificate of approval, may by a notice served on the managers of the school prohibit the admission of persons to the school for such time as may be specified in the notice, or until the notice is revoked.

- (3) The managers of an approved school may, on giving six months' notice in writing to the Scottish Education Department of their intention so to do, surrender the certificate of approval of the school, and at the expiration of six months from the date of the

notice (unless the notice is previously withdrawn), the surrender of the certificate shall take effect, and the school shall cease to be an approved school.

- (4) No person shall in pursuance of this Act be received into the care of the managers of an approved school after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate of approval of the school or after the date of a notice of intention to surrender the certificate; but the obligations of the managers with respect to persons under their care at the respective dates aforesaid shall continue until the withdrawal or surrender takes effect.
- (5) The Scottish Education Department shall cause any grant of a certificate of approval of an approved school, and any notice of the withdrawal of, or intention to surrender, such a certificate, to be advertised within one month from the date thereof in the Edinburgh Gazette.

84 Provision of approved schools by education authorities

- (1) An education authority may, with the approval of the Scottish Education Department, undertake, or combine with any other education authority in undertaking, or contribute such sums of money upon such conditions as they may think fit towards, the purchase, establishment, building, alteration, enlargement, rebuilding or management of an approved school:

Provided that, before giving their approval, the Scottish Education Department shall satisfy themselves that the proposed expenditure is reasonable and, where it is proposed to purchase, build or establish a new school, that there is a deficiency of approved school accommodation which cannot properly be remedied in any other way.

- (2) In the event of a deficiency of approved school accommodation, it shall be the duty of every education authority concerned to take, either alone or in combination with other education authorities, appropriate steps under this section to remedy the deficiency.

85 Classification, administration and management

- (1) The Scottish Education Department may classify approved schools according to the age of the persons for whom they are intended, the religious persuasion of such persons, the character of the education and training given therein, their geographical position, and otherwise as they think best calculated to secure that a person sent to an approved school is sent to a school appropriate to his case, or as may be necessary for the purposes of this Act.
- (2) The managers of an approved school shall be bound to accept any person who in pursuance of this Act is sent or transferred to their school or otherwise to their care, unless—
 - (a) the school is a school for persons of a particular religious persuasion not being that of the person whom it is proposed to send or transfer; or
 - (b) the school is a school provided by an education authority which is not, or by a combination of education authorities no one of which is, liable to make contributions in respect of the person whom it is proposed to send or transfer; or
 - (c) the managers of the school satisfy the Scottish Education Department that there are already as many persons detained in that school, or, as the case may be, otherwise under their care, as is desirable.

- (3) The provisions set out in the Second Schedule to this Act shall have effect in relation to the administration of approved schools and the treatment of persons sent thereto.

86 Escapes from approved schools, and c

- (1) Any person who has been ordered to be sent to an approved school and who—
- (a) escapes from the school in which he is detained, or from any hospital, home or institution in which he is receiving medical attention; or
 - (b) being absent from his school on temporary leave of absence or on licence, runs away from the person in whose charge he is, or fails to return to the school upon the expiration of his leave, or upon the revocation of his licence; or
 - (c) being absent from his school under supervision, fails to return to the school upon being recalled,

may be apprehended without warrant, and may (any other Act to the contrary notwithstanding) be brought before a court of summary jurisdiction having jurisdiction where he is found, or where his school is situate; and that court may (notwithstanding any limitations contained in this Act upon the period during which he may be detained in an approved school) order him—

- (i) if he is under the age of sixteen years, to be brought back and to have the period of his detention in the school increased by such period not exceeding six months as the court may direct; or
 - (ii) if he has attained the age of sixteen years, to be brought back and to have the period of his detention so increased, or to be sent to a Borstal institution for two years.
- (2) Where a person is under the last foregoing subsection brought back to his school, the period of his detention shall (notwithstanding any limitations contained in this Act upon the period during which he may be detained in an approved school) be increased, over and above any increase ordered by a court, by a period equal to the period during which he was unlawfully at large.
- (3) The expenses of bringing a person back to a school shall be borne by the managers of the school.
- (4) If any person knowingly—
- (a) assists or induces a person to commit any such offence as is mentioned in subsection (1) of this section; or
 - (b) harbours or conceals a person who has committed such an offence, or prevents him from returning,
- he shall, on summary conviction, be liable to be imprisoned for any term not exceeding two months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.
- (5) If a court of summary jurisdiction is satisfied by information on oath that such an offence as aforesaid has been committed and that there is reasonable ground for believing that some person named in the information could produce the offender, the court may make an order requiring that person to attend at the court on such day as may be specified in the order, and to produce the offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be liable on summary conviction to a fine not exceeding five pounds.

87 Power to send children and young persons from England, Northern Ireland, Isle of Man and Channel Islands to approved schools in Scotland

- (1) Any person detained in a school under the law in force in England or Northern Ireland may, with the consent of the Scottish Education Department, be transferred by order of the competent authority in England or Northern Ireland to an approved school in Scotland designated for the purpose by the Scottish Education Department, and after delivery to the managers of that school may be dealt with and shall be subject to the provisions of this Act as if the order sending him to the school in England or Northern Ireland were an approved school order made upon the same date by a juvenile court.
- (2) The Scottish Education Department may at any time by order direct that a person who under the last foregoing subsection has been transferred to an approved school in Scotland from a school in England or Northern Ireland shall be retransferred to the last-mentioned school, or to such other school as may be specified by the competent authority in England or Northern Ireland, and thereupon the managers of that school shall receive him accordingly.
- (3) If under any law of the Isle of Man or of any of the Channel Islands a court is empowered to order children or young persons under seventeen years of age to be sent to approved schools in Scotland and if by that law provision satisfactory to the Scottish Education Department is made—
 - (a) for the expenses of the conveyance of the children or young persons, and of their reconveyance when discharged, or released on licence;
 - (b) for contributions towards the expenses of the managers of the school; and
 - (c) for the contribution (if any) to be made by the parent or person legally liable to maintain a child or young person so sent, and the mode in which such contribution is to be raised,a child or young person with respect to whom such an order is made by a court under the said law may be received into such approved school as the Scottish Education Department may direct, and after delivery to the managers of that school may be dealt with, and shall be subject to the provisions of this Act, as if the order sending him to the school were an approved school order made upon the same date by a juvenile court.
- (4) A person so ordered by the competent authority in England or Northern Ireland or by a court in the Isle of Man or the Channel Islands to be transferred or sent to an approved school in Scotland, or so ordered by the Scottish Education Department to be retransferred to a school in England or Northern Ireland, may be conveyed in the custody of any constable or other person acting under a warrant issued by the competent authority in England or Northern Ireland, or by a court in the Isle of Man or the Channel Islands, or by the Scottish Education Department, as the case may be, to the school to which he is ordered to be transferred, sent or retransferred, and he shall during his conveyance to that school be deemed to be in legal custody.
- (5) In this section the expression " competent authority " means, in relation to England, the Secretary of State, and, in relation to Northern Ireland, the Minister of Home Affairs for Northern Ireland, or such authority or person as may be designated by the Parliament of Northern Ireland to exercise the powers conferred by this section on the competent authority in Northern Ireland.

Fit Persons

88 General provisions as to children and young persons committed to the care of fit persons

- (1) The provisions of this section shall apply in relation to orders under this Act committing a child or young person to the care of a fit person, and in this section the expressions " child " and " young person " mean a person with respect to whom such an order is in force, irrespective of whether at the date of the making of the order, or at any subsequent date while the order is in force, he was, or is, a child or young person.
- (2) The Secretary of State may, if he thinks fit, make rules as to the manner in which children and young persons so committed are to be dealt with and as to the duties of the persons to whose care they are committed and may cause any children or young persons committed to the care of an education authority to be visited from time to time.
- (3) An education authority may board out children and young persons committed to their care for such periods and on such terms as to payment and otherwise as they think fit :

Provided that—

- (a) the power of an education authority under this subsection shall be exercised in accordance with any rules made under the last foregoing subsection as to the persons with whom and the conditions under which children and young persons committed to the care of an education authority may be so boarded out;
 - (b) in selecting the person with whom any child or young person is to be boarded out, the education authority shall, if possible, select a person who is of the same religious persuasion as the child or young person, or who gives an undertaking that he will be brought up in accordance with that religious persuasion.
- (4) The Secretary of State may at any time in his discretion discharge a child or young person from the care of the person to whose care he has been committed, and any such discharge may be granted either absolutely or subject to conditions.
 - (5) The Secretary of State in any case where it appears to him to be for the benefit of a child or young person may empower the person to whose care he has been committed to arrange for his emigration, but except with the authority of the Secretary of State no person to whose care a child or young person has been committed shall arrange for his emigration :

Provided that the Secretary of State shall not empower such a person to arrange for the emigration of a child or young person, unless he is satisfied that the child or young person consents and also that his parents have been consulted or that it is not practicable to consult them.

- (6) An order committing a child or young person to the care of a fit person may, on the application of any person, be varied or revoked—
 - (a) if the order was made by a court of summary jurisdiction, by a juvenile court acting for the same place;
 - (b) in any case, by a juvenile court acting for the place within which the child or young person is residing.
- (7) If, on an application made by the parent or guardian or any near relative of a child or young person committed by any such order as aforesaid, any court having power to

vary or revoke the order is satisfied that he is not being brought up in accordance with his religious persuasion, the court shall, unless a satisfactory undertaking is offered by the person to whose care he has been committed, either revoke the order or vary it in such manner as the court thinks best calculated to secure that he is thenceforth brought up in accordance with that persuasion.

- (8) Where the education authority are of opinion that any child or young person who has been committed to their care and who is under seventeen years of age should be sent to an approved school, they may apply to a juvenile court, and that court may, if it thinks that it is desirable in his interests to do so, order him to be sent to such a school.

89 Escapes from care of fit persons

- (1) A child or young person who runs away from a person to whose care he has been committed under this Act may be apprehended without warrant and brought back to that person, if he is willing to receive him, and if he is not willing to receive him, may be brought—

- (a) if the order committing him to the care of that person was made by a court of summary jurisdiction, before a juvenile court acting for the same place as that court; or
- (b) in any other case, before a juvenile court having jurisdiction in the place where he was residing immediately before he ran away,

and that court may make any order with respect to him which the court might have made if he had been brought before it as being a child or young person who, having no parent or guardian, was beyond control.

- (2) A child or young person who runs away from any person with whom he has been boarded out by an education authority under this Act may be apprehended without warrant and brought back to that person, or to such other person as the education authority direct.

- (3) Any person who knowingly—

- (a) assists or induces a child or young person to run away from a person to whose care he has been committed, or with whom he has been boarded out by an education authority, under this Act; or
- (b) harbours or conceals a child or young person who has so run away, or prevents him from returning,

shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

Provisions as to Contributions towards Expenses

90 Contributions to be made by parents, and c. of children and young persons committed to the care of fit persons, or to approved schools

- (1) Where an order has been made by a court committing a child or young person to the care of a fit person, or sending him to an approved school, it shall be the duty of the following persons to make contributions in respect of him, that is to say :—

- (a) his father or stepfather;
- (b) his mother or stepmother; and

- (c) any person who, at the date when any such order as aforesaid is made, is cohabiting with the mother of the child or young person, whether he is his father or not.
- (2) Where the child or young person has been committed to the care of a fit person not being an education authority, contributions under this section shall (except where a direction for payment to an education authority is given under subsection (4) of the next following section) be payable to that person to be applied by him in or towards the maintenance, or otherwise for the benefit, of the child or young person.
- (3) Where the child or young person has been committed to the care of an education authority, or ordered to be sent to an approved school, the contributions shall be payable to the education authority within whose area the person liable to make the contributions is for the time being residing, and shall be paid over by the authority to the Scottish Education Department at such times and in such manner, but subject to such deductions in respect of the services rendered by the authority, as may be prescribed.
- (4) Any sums received by the Scottish Education Department under the last foregoing subsection shall be applied in such manner as the Treasury may direct as appropriations in aid of moneys provided by Parliament for the purposes of this Act.

91 Enforcement of duty of parent, and c. to make contributions

- (1) Where an order has been made by a court committing a child or young person to the care of a fit person or sending him to an approved school, the court which makes it may at the same time, and any court of summary jurisdiction having jurisdiction in the place where the person to be charged is for the time being residing may subsequently at any time, make an order (hereafter in this Act referred to as a " contribution order ") on any person who is under the last foregoing section liable to make contributions in respect of the child or young person, requiring him to contribute such weekly sum as the court having regard to his means thinks fit:

Provided that the total amount to be contributed for any week in respect of any one child or young person under contribution orders shall not (together with any sum payable in respect of that child or young person under a decree for aliment with respect to which an order under the next following section is in force) exceed such sum as may be prescribed, and for this purpose different sums may be prescribed in relation to different circumstances and, in the case of children sent to approved schools, in relation to different schools or classes of school.

- (2) A contribution order may, if the child or young person is committed to the care of a fit person not being an education authority, be made on the application of that person and may, if the child or young person is committed to the care of an education authority, or ordered to be sent to an approved school, be made on the application—
 - (a) in the case of an order applied for at the time when the child or young person is so dealt with, of the education authority to whose care he has been committed, or who are named in the approved school order, as the case may be;
 - (b) in the case of an order applied for subsequently, of the education authority entitled to receive contributions.
- (3) Where a contribution order has been made on any person to whom any pension or income capable of being arrested is payable, the court making the order may at the same time, and any court of summary jurisdiction having jurisdiction in the place

where such person is for the time being resident, may subsequently at any time, after giving the person by whom the pension or income is payable an opportunity of being heard, order that such part as the court may see fit of the pension or income be paid to the person who is for the time being entitled to receive the contributions under the contribution order. Any order made under this subsection shall be an authority to the person by whom the pension or income is payable to make the payment so ordered and the receipt of the person for the time being entitled to receive the contributions shall be a good discharge to the person by whom the pension or income is payable.

- (4) Where a contribution order has been made in respect of a child or young person committed to the care of a fit person, not being an education authority, the court making the contribution order may at the same time, on the application of that person, and any court of summary jurisdiction having jurisdiction in the place where the person liable in payment of the contributions is for the time being resident, may subsequently at any time, on the like application, direct that the contributions shall, in lieu of being payable to the person to whose care the child or young person has been committed, be payable to the education authority within whose area the person liable in payment of the contributions is for the time being resident, and any sums received by that authority in pursuance of such direction shall be paid over to the person to whose care the child or young person has been committed and shall be applied by him in or towards the maintenance, or otherwise for the benefit, of the child or young person.
- (5) A contribution order shall remain in force, in the case of a child or young person committed to the care of a fit person, so long as the order for his committal is in force, and in the case of a child or young person ordered to be sent to an approved school, until he ceases to be under the care of the managers of such a school:
- Provided that no contributions shall be payable under a contribution order in respect of any period during which a person ordered to be sent to an approved school is out on licence or under supervision from such a school.
- (6) A contribution order may be revoked or varied by any court of summary jurisdiction having jurisdiction in the place where the person liable is for the time being residing and shall be enforceable in like manner as a decree for aliment.
- (7) A person on whom a contribution order is made shall, if he changes his address, forthwith give notice thereof to the person who was, immediately before the change, entitled to receive the contributions and, if he fails so to do, he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two pounds.

92 Provision as to decrees for aliment

- (1) Where a child or young person who is ordered by a court to be committed to the care of a fit person, or to be sent to an approved school, is illegitimate, and a decree for aliment in respect of him is in force, that court may at the same time, and any court of summary jurisdiction having jurisdiction in the place where the father is for the time being residing may subsequently at any time, order the payments under the decree for aliment to be paid to the person who is from time to time entitled under either of the last two foregoing sections of this Act to receive contributions in respect of the child or young person.

Applications for orders under this subsection may be made by the persons by whom, and in the circumstances in which, applications for contribution orders may be made.

- (2) Where an order made under this section with respect to a decree for aliment is in force—
 - (a) any sums received under the decree for aliment shall be applied in like manner as if they were contributions received under a contribution order;
 - (b) if the father changes his address, he shall forth with give notice thereof to the person who was immediately before the change entitled to receive payments under the order and, if he fails so to do, he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two pounds.
- (3) The making of an order under this section with respect to a decree for aliment shall not, where the father was, at the date of the order committing the child or young person to the care of a fit person or ordering him to be sent to an approved school, cohabiting with the mother of the child or young person, be taken to relieve him from his obligation under the last two foregoing sections to make contributions in respect of the child or young person, except to the extent of any sums actually paid under the decree for aliment to the person entitled to receive contributions.

93 Miscellaneous provisions as to contribution orders

- (1) The Secretary of State, in the case of a child or young person committed to the care of a fit person not being an education authority, and the Scottish Education Department, in the case of a child or young person committed to the care of an education authority or ordered to be sent to an approved school, may in their discretion remit the whole or any part of any payment ordered under either of the last two foregoing sections to be made to a person entitled to receive contributions in respect of such child or young person.
- (2) Where, by virtue of an order made under either of the two last foregoing sections, any sum is payable to an education authority, the education authority in 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 that area.
- (3) In any proceedings under either of the two last foregoing sections, a certificate purporting to be signed by the clerk to an education 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.
- (4) Nothing in this or in the three last foregoing sections shall apply in relation to an approved school order made on the application of a poor law authority in their capacity as such, but the sending of a child or young person to an approved school under such an order shall not affect any right of such authority to recover from any person liable to maintain the child or young person sums expended by the authority in alighting him and for the purpose of any such right the child or young person shall, while under the care of the managers of an approved school, be deemed to be still in receipt of relief.

94 Contributions by education authorities in respect of persons sent to approved schools

- (1) Subject to the provisions of this section, the education authority named in an approved school order as being the authority within whose area the person to whom the order relates was resident, or within whose area the offence was committed, or the

circumstances arose rendering him liable to be sent to an approved school, shall make in respect of him, throughout the time during which he is under the care of the managers of an approved school, such contributions to the expenses of the managers of his school as may be prescribed and for this purpose different contributions may be prescribed in relation to different circumstances and in relation to different schools or classes of school.

- (2) A court by which an approved school order is made shall cause a copy thereof to be served forthwith on the education authority named in the order, and if that authority desire to contend that the person to whom the order relates was resident in the area of some other education authority or was resident outside Scotland, they may, by notice in writing given at any time within three months after the service upon them of the order, appeal to the sheriff having jurisdiction in the place where the court making the approved school order sat, and if, upon the hearing of the appeal, the sheriff is satisfied that the person to whom the order relates was resident in the area of that other education authority, or was resident outside Scotland, he may by order vary the approved school order by substituting therein the name of that other authority or, as the case may be, a statement that the said person was resident outside Scotland.

Notice of any appeal under this subsection shall be given to the other education authority concerned, if any, and to the sheriff clerk, and the sheriff clerk shall give to the parties to the appeal fourteen days' notice of the date fixed by the court for the hearing thereof.

- (3) An order made under this section shall have effect retrospectively as from the making of the approved school order, and all necessary payments by way of adjustment shall be made accordingly.
- (4) The foregoing provisions of this section shall not apply in relation to an approved school order which—
- (a) is made on the application of a poor law authority in their capacity as such; or
 - (b) is made by reason of the commission of an offence under section twenty-one of this Act (which relates to the punishment of vagrants preventing children from receiving education); or
 - (c) relates to a child or young person stated in the order to have been resident outside Scotland,

but in the first mentioned case the poor law authority on whose application the order is made shall throughout the periods during which the child or young person belongs to either of the following classes of persons, that is to say—

- (i) persons under the care of the managers of an approved school, not being persons out on licence or under supervision;
- (ii) persons out on licence or under supervision from an approved school,

make such contributions in respect of him to the expenses of the managers of his school as the Scottish Education Department may determine to be reasonable, regard being had to the average expenses of the managers (including establishment and administrative expenses) fairly attributable to persons belonging to the class in question.

- (5) In determining for the purposes of this section the place of residence of a child or young person, any period during which he resided in any place as an inmate of a school or other institution, or while boarded out under this Act by an education authority to whose care he has been committed, or in accordance with the conditions of a bond, shall be disregarded.

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95 Variation of trusts for maintenance of child or young person

Where a child or young person is by an order of any court made under this Act removed from the care of any person, and that person is entitled under any trust to receive any sum of money in respect of the maintenance of the child or young person, the court may order the whole or any part of the sums so payable under the trust to be paid to any person to whose care the child or young person is committed, to be applied by that person for the benefit of the child or young person in such manner as, having regard to the terms of the trust, the court may direct.

PART VI

HOMES SUPPORTED BY VOLUNTARY CONTRIBUTIONS

96 Definition of voluntary homes

In this Part of this Act the expression " voluntary home " means any home or other institution for the boarding, care, and maintenance of poor children or young persons, being a home or other institution supported wholly or partly by voluntary contributions, but does not include any institution or house certified by the General Board of Control for Scotland under the Mental Deficiency and Lunacy (Scotland) Act, 1913, unless children or young persons who are not mental defectives within the meaning of that Act are received therein.

97 Notification of particulars with respect to voluntary homes

- (1) It shall be the duty of the person in charge of a voluntary home to send to the Secretary of State, in accordance with the next succeeding subsection, the prescribed particulars with respect to the home.
- (2) (a) In the case of a home established after, or within three months before, the commencement of this Act, the prescribed particulars shall be sent within three months after the establishment of the home and shall also be sent before such date in each subsequent year as may be prescribed; and
 - (b) in the case of any other home, the prescribed particulars shall be sent before such date in each year as may be prescribed :

Provided that nothing in this section shall require particulars with respect to a home to be sent to the Secretary of State in any year in which particulars with respect to that home have been sent to him in pursuance of section forty of the Children and Young Persons (Scotland) Act, 1932.

- (3) 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, on conviction by a court of summary jurisdiction, be liable to a fine not exceeding five pounds and to a further fine not exceeding twenty shillings in respect of each day during which the default continues after conviction.
- (4) A person who has been convicted under section forty of the Children and Young Persons (Scotland) Act, 1932, shall be liable to the like penalty in respect of each day during which the default continues, as if he had been convicted under this section.

98 Inspection of voluntary homes

- (1) The Secretary of State may cause any voluntary home to be inspected from time to time, unless the home is one which is, as a whole, otherwise subject to inspection by, or under the authority of, a Government department.
- (2) The Secretary of State may, with the consent of any local authority, appoint officers of that authority to conduct inspections under this section on his behalf.
- (3) Any person appointed by the Secretary of State to inspect any voluntary home shall have power to enter the home and to make such examinations into the state and management thereof and the condition and treatment of the children and young persons therein as he thinks requisite, and any person who obstructs him in the execution of his duties shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds, and a refusal to allow a person so appointed to enter the home shall, for the purposes of section forty-seven of this Act (which relates to search warrants), be deemed to be a reasonable cause to suspect that a child or young person in the home is being neglected in a manner likely to cause him unnecessary suffering or injury to health.

99 Control over voluntary homes

- (1) If the Secretary of State is satisfied that the management of any voluntary home, or the accommodation provided for, or the treatment of, the children and young persons therein, is such as to endanger their welfare, he may serve upon the persons responsible for the management of the home such general or special directions with respect to the matters aforesaid, or any of them, as he thinks expedient for the welfare of the children and young persons in the home.

A direction under this subsection—

- (a) may be served on the persons responsible for the management of a home by being delivered personally to any one of them, or by being sent, by post or otherwise, in a letter addressed to them or any of them at the home;
 - (b) may be varied by a subsequent direction, or withdrawn by the Secretary of State.
- (2) Where any such direction is not complied with, a court of summary jurisdiction having jurisdiction in the place where the home is situate may, on the application of any person appointed for the purpose by the Secretary of State, make an order on the person in charge of the home and on such other persons as the court may think fit, requiring him or them to appear before the court on such day as may be specified in the order, and the court may on that day, if it thinks fit, make an order for the removal of all children and young persons from the home :

Provided that—

- (a) such an order shall not be made unless the court is satisfied that the welfare of some of the children or young persons is endangered;
 - (b) the court may, if it thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in the order and the direction shall have effect accordingly.
- (3) An order for the removal of all children and young persons from a voluntary home shall operate as an authority to any person named in the order, and to any constable, to enter the home and to remove the children and young persons therein to a place of

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safety; and where any persons are so removed, it shall be the duty of the local authority to maintain them in a place of safety until they can be restored to their relatives, or until other arrangements have been made with respect to them.

- (4) Where an order has been made for the removal of all children and young persons from a voluntary home, the home shall not be used for the reception of children or young persons without the consent of the Secretary of State, and any person who knowingly permits it to be so used shall, on conviction by a court of summary jurisdiction, be liable to a fine not exceeding five pounds and to a further fine not exceeding twenty shillings in respect of each day during which such use continues after conviction.

PART VII

MISCELLANEOUS AND GENERAL

100 Reception and maintenance of children and young persons in poorhouses

Poor law authorities shall provide for the reception of children and young persons brought to a poorhouse in pursuance of this Act, and, where the place to which under this Act a child or young person is authorised to be taken is a poorhouse, the person in charge thereof shall receive the child or young person into the poorhouse if there is suitable accommodation therein.

101 Powers, duties and expenses of local authorities, and c

- (1) Expenses incurred by a local authority under Part I of this Act shall be defrayed in like manner as expenditure for the relief of the poor.
- (2) Expenses incurred under this Act by an education authority shall be defrayed in like manner as expenses of the authority under the Education (Scotland) Acts, 1872 to 1936, and expenses incurred under this Act by a poor law authority or by a local authority in their capacity as poor law authority shall be defrayed in like manner as expenditure for the relief of the poor :

Provided that expenses incurred in respect of a child or young person brought to a poorhouse under this Act shall form part of the establishment charges of the poorhouse.

- (3) Expenses incurred under this Act by a police authority shall be defrayed in like manner as expenditure for administration of the police, provided that in any burgh where such expenditure was under the law existing at the passing of the Children Act, 1908, payable in whole or in part out of the burgh general assessment expenses incurred under this Act by the police authority of such burgh or any contribution to such expenses payable by the burgh by virtue of section twenty-one of the Local Government (Scotland) Act, 1929, shall be defrayed out of such rate payable by owners and occupiers in equal proportions as the town council may determine.
- (4) Expenses incurred under this Act by a local authority (other than any expenses referred to in either of the last two foregoing subsections), and any contribution to such expenses payable by a town council by virtue of section twenty-one of the Local Government (Scotland) Act, 1929, shall be defrayed out of such rate payable by owners and occupiers in equal proportions as the council may determine.

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- (5) A local authority or an education authority shall have power to borrow for the purposes of any powers or duties conferred or imposed on them by this Act, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, and, in the case of an education authority, of section forty-five of the Education (Scotland) Act, 1872, as amended by any subsequent enactment shall apply to the power hereby conferred.
- (6) A local authority or an education authority shall for the purposes of any powers or duties conferred or imposed on them by this Act have power to acquire, dispose of or otherwise deal with land in like manner as a local authority under the Housing (Scotland) Act, 1925, for the purposes of that Act, and sections fifty and fifty-one of, and the Third Schedule to, the said Act shall apply accordingly with the substitution of the Secretary of State or the Scottish Education Department, as the case may be, for the Board referred to in the said enactments or in any enactment applied by them.
- (7) A local authority, an education authority, a poor law authority or a committee to whom any powers of any such authority under this Act have been delegated, may by resolution empower the clerk or other officer of the authority to exercise in the name of the authority in any case which appears to him to be one of urgency any powers of the authority or, as the case may be, of the committee with respect to the institution of proceedings under this Act.
- (8) A local authority may, with the approval of the Department of Health for Scotland (and so long as that approval is not withdrawn), subscribe to the funds of an association or society for the prevention of cruelty to children.

102 Institution of proceedings by local or poor law authorities

- (1) A local authority or a poor law authority may institute proceedings for any offence under sections twelve, thirteen, fourteen, fifteen or twenty-two of this Act.
- (2) Any such authority may appear by their clerk or other officer duly authorised in that behalf in any proceedings instituted by them under this Act.

Supplementary Provisions as to Legal Proceedings

103 Presumption and determination of age

- (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due inquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it has attained the age of seventeen years, that person shall for the purposes of this Act be deemed not to be a child or young person.
- (2) Where in any complaint or indictment for any offence under this Act or any of the offences mentioned in the First Schedule to this Act, except an offence under the Criminal Law Amendment Act, 1885, it is alleged that the person by or in respect of whom the offence was committed was a child or young person or was under or had

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attained any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or young person, or to have been under or to have attained the specified age, as the case may be, he shall for the purposes of this Act be presumed at that date to have been a child or young person or to have been under or to have attained that age, as the case may be, unless the contrary is proved.

- (3) Where, in any complaint or indictment for any offence under this Act or any of the offences mentioned in the First Schedule to this Act, it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.
- (4) Where a person is charged with an offence under this Act in respect of a person apparently under a specified age, it shall be a defence to prove that the person was actually of or over that age.

104 Evidence of wages of defendant

In any proceedings under this Act a copy of an entry in the wages book of any employer of labour, or if no wages book be kept a written statement signed by the employer or by any responsible person in his employ, shall be evidence that the wages therein entered or stated as having been paid to any person, have in fact been so paid.

105 Summary jurisdiction

- (1) Subject to the provisions of this Act, all orders of a court of summary jurisdiction under this Act shall be made, and all proceedings in relation to any such orders shall be taken, in manner provided by the Summary Jurisdiction (Scotland) Acts, and the power of making rules under section sixteen of the Summary Jurisdiction (Scotland) Act, 1908, shall extend to making rules for regulating the procedure of courts of summary jurisdiction under this Act and matters incidental thereto.
- (2) Any magistrate who, by virtue of a local Act had jurisdiction before the first day of April nineteen hundred and nine for any of the purposes of the Prevention of Cruelty to Children Act, 1904, shall have jurisdiction for the like purposes of Part II of this Act.

Supplementary Provisions as to Secretary of State

106 Powers of Secretary of State and Scottish Education and Health Departments to appoint inspectors, and c

- (1) The Secretary of State and the Scottish Education Department may, for the purposes of their respective powers and duties under the enactments relating to children and young persons, appoint such number of inspectors as the Treasury may approve and may pay to the persons respectively appointed by them such remuneration and allowances as, with the consent of the Treasury, the Secretary of State or the Department, as the case may be, may determine, and the Department may authorise or require any of His Majesty's Inspectors of Schools to exercise any power or perform any duty which might be exercised or performed by any inspector appointed in pursuance of this section.

- (2) The Department of Health for Scotland shall have, for the purposes of Part I of this Act, the like power of making inquiries, calling for returns, and applying to the Court of Session as they have for the purposes of the Poor Law (Scotland) Act 1845.

107 Exchequer grants and expenses of Secretary of State and Scottish Education Department

- (1) There shall be paid out of money provided by Parliament—
- (a) such sums on such conditions as the Secretary of State with the approval of the Treasury may recommend towards—
 - (i) the expenses of the managers of an approved school;
 - (ii) the expenses of an education authority in respect of children and young persons committed to their care;
 - (iii) the expenses of a council of a local authority in respect of remand homes;
 - (b) any expenses incurred by the Secretary of State or the Scottish Education Department in the administration of this Act.
- (2) The conditions on which any sums are paid under this section towards the expenses incurred in connection with the provision of a site for, or with the erection, enlargement, improvement or repair of, an approved school, may include conditions for securing the repayment in whole or in part of the sums paid in the event of the school ceasing to be an approved school, and, notwithstanding anything in the constitution of the school or of the managers thereof, or in the trusts, if any, to which the property of the school or of the managers is subject, the managers and any persons who are trustees of any of the said property may accept those sums on those conditions, and execute any instrument required for carrying into effect those conditions, and shall be bound by those conditions and by any instrument so executed and have power to fulfil the conditions and the obligations created by the instrument.

108 Powers of Secretary of State may be transferred

It shall be lawful for the Secretary of State, with the consent of the Treasury, from time to time to make an order transferring to the Scottish Education Department or to the Department of Health for Scotland any power for the time being possessed by him under this Act (not being a power under section fifty or section fifty-one of this Act), and by such order to make any adjustment consequential on the transfer and to provide for any matter necessary or proper for giving full effect to the transfer, and, on any such order being made, the powers so transferred shall be exercisable by the Scottish Education Department, or the Department of Health for Scotland, as the case may be.

General

109 Provisions as to documents, and c

- (1) An order or other act of the Secretary of State under this Act may be signified under the hand of the Secretary of State or an Under-Secretary of State or an Assistant Under-Secretary, and an order or other act of the Scottish Education Department may be signified under the hand of the Secretary or of an Assistant Secretary of the Department.

- (2) 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 sixty, sixty-one and sixty-six to ninety-four of this Act or in the Second Schedule to this Act; or
 - (b) of an order made after the commencement of this Act under section four of the Day Industrial Schools (Scotland) Act, 1893, sending a person to an approved school or committing him to the care of a fit person; or
 - (c) of a decree for aliment referred to in an order under section ninety-two 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 or decree.
- (3) The production of a copy of the Edinburgh Gazette containing a notice of the grant, or of the withdrawal or surrender, of a certificate of approval of an approved school shall be sufficient evidence of the fact of a certificate having been duly granted to the school named in the notice, or of the withdrawal or surrender of such a certificate, and the grant of a certificate of approval of an approved school may also be proved by the production of the certificate itself, or of a document purporting to be a copy of the certificate and to be authenticated as such by the Secretary or an Assistant Secretary of the Scottish Education Department.
- (4) Any notice or other document required or authorised by this Act to be served on the managers of an approved school may, if those managers are an education authority or a joint committee representing two or more education authorities, be served either personally or by post upon their clerk, and in any other case, may be served either personally or by post upon any one of the managers, or their secretary, or the headmaster of the school.
- (5) An order, licence, or other document may be authenticated on behalf of the managers of an approved school, if they are an education authority or a joint committee representing two or more education authorities, by the signature of their clerk or some other officer of the education authority duly authorised in that behalf, and in any other case, by the signature of one of the managers or their secretary, or of the headmaster.

110 Interpretation

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—
- " Approved school " means a school approved by the Scottish Education Department under section eighty-three of this Act;
- " Approved school order " means an order made by a court sending a child or young person to an approved school;
- " Borstal institution " means an institution established under Part I of the Prevention of Crime Act, 1908;
- " Certificate," " exciseable liquor, " and " permitted hours " have the like meanings as in the Licensing (Scotland) Acts, 1903 to 1923;
- " Child " (except as provided in section thirty-seven of this Act) means a person under the age of fourteen years;
- " Commit for trial " means commit until liberation in due course of law;

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" Court of summary jurisdiction " means the sheriff or any two or more justices of the peace or any magistrate or magistrates by whatever name called officiating under the provisions of any general or local police Act;

" Guardian," in relation to a child or young person, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person ;

" Headmaster " includes superintendent;

" In need of care or protection " has the meaning assigned to it by section sixty-five of this Act;

" Justice " (except in section fifty-one of this Act) includes the sheriff and any such magistrate as aforesaid;

" Large burgh " has the like meaning as in the Local Government (Scotland) Act, 1929;

" Legal guardian " in relation to a child or young person means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

" Licensed premises " means premises for which a certificate within the meaning of the Licensing (Scotland) Acts, 1903 to 1923, is held, and " bar " in relation to any licensed premises means any open drinking bar or any part of the premises exclusively or mainly used for the sale and consumption of exciseable liquor;

" Local authority " and " poor law authority " mean the council of a county or of a large burgh;

" Managers, " in relation to an approved school established or taken over by an education authority or by a joint committee representing two or more education authorities, means the education authority or the joint committee as the case may be, and in relation to any other approved school, means the persons for the time being having the management or control thereof;

" Passage " includes common close, or common stair, or common passage;

" Place of safety " means any remand home, poor house, or police station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive a child or young person;

" Police authority " means a county council or the council of a burgh maintaining a separate police force;

" Prescribed " means prescribed by regulations made by the Secretary of State or by the Scottish Education Department according as the matter to be dealt with is within the powers of the Secretary of State or of the Department;

" Public place " includes any public park, garden, sea beach or railway station, and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

" Remand " means an order adjourning the proceedings or continuing the case and giving direction as to the detention in custody or liberation of a person during the period of adjournment or continuation and any reference to remanding a person or to remanding in custody shall be construed accordingly;

" Street " includes any highway and any public A.D. 1937. bridge, road, lane, footway, square, court, alley—or passage whether a thoroughfare or not;

" Young person " means a person who has attained the age of fourteen years and is under the age of seventeen years.

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- (2) For the purpose of any powers or duties which are by this Act conferred or imposed on county councils and on the councils of certain burghs only, all other burghs shall be included within the county.
- (3) (a) For the purpose of any provision of this Act referring to a court acting for any place—
- (i) a court entitled to exercise jurisdiction in any place shall be deemed to be a court acting for that place;
 - (ii) the sheriff court, and the justice of the peace court for any county, and the juvenile court for any area shall each be deemed to be a court acting for the same place as the burgh or police court of any burgh situated in that county or area, as the case may be;
 - (iii) the sheriff court for any county shall be deemed to be a court acting for the same place as the justice of the peace court for that county;
 - (iv) the juvenile court for any area being a county shall be deemed to be a court acting for the same place as the sheriff court or the justice of the peace court for that county;
- and save as aforesaid no court shall be deemed to be a court acting for the same place as any other court.
- (b) In this subsection the expression " county" includes a county of a city, and a burgh being a county of a city shall be deemed to be a burgh situated in the county of the city, and the sheriff court for any county means the sheriff court of the sheriffdom comprising the county.
- (4) References in this Act to findings of guilty and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.
- (5) References in this Act to any enactment or to any provision in any enactment shall, unless the context otherwise requires, be construed as references to that enactment or provision as amended by any subsequent enactment including this Act.

111 Transitory provisions

- (1) Without prejudice to the provisions of the Interpretation Act, 1889, with respect to repeals, the transitory provisions set out in the Third Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the provisions of the enactments repealed by this Act.
- (2) References in any Act to places of detention provided under section one hundred and eight of the Children Act, 1908, shall be construed as references to remand homes provided under this Act.
- (3) References in any Act or other document to reformatory schools or industrial schools and to youthful offenders and children sent thereto or detained therein shall be construed as including references to approved schools and to children and young persons sent thereto or detained therein, and references in any Act or other document to orders committing a child or young person to the care of a fit person under any of the provisions of the Children Act, 1908, shall be construed as including references to orders of the like nature made under this Act.
- (4) References in any Act or other document to juvenile courts under the Children Act, 1908, shall be construed as including references to such courts under this Act.

- (5) References in any Act or other document to any enactment repealed and re-enacted with or without modifications by this Act shall be construed as including references to the corresponding provision of this Act.
- (6) The reference in the First Schedule to this Act to any offence under sections twelve, thirteen, fourteen, twenty-two or thirty-three of this Act shall be construed as including a reference to any offence under the Dangerous Performances Acts, 1879 and 1897, or under Part II of the Children Act, 1908.

112 Saving of provisions in Aberdeen local Act

Subject to the provisions herein-after contained, nothing in this Act shall be construed to repeal, alter, prejudice, or affect any of the provisions of the Aberdeen Reformatories and Industrial Schools Act, 1885, and the directors acting under that Act shall continue to have the full rights, privileges, and powers competent to them immediately prior to the commencement of this Act: Provided, nevertheless, that the Secretary of State may, by order under his hand, provide for altering, amending, or adapting that Act so as to provide (a) for the re-constitution of the board of directors, for the election of new directors, for subsequent elections of directors, for the annual retiral of one-third or other proportion of the directors, and for supplying vacancies arising from time to time; and (6) for otherwise altering, amending or adapting the provisions of the said Act, as may seem to him necessary to make those provisions conform with the provisions of this Act, or to enable the powers under the said Act to be exercised-as if they were powers under this Act. Any such order may be revoked and varied by a subsequent order.

113 Short title, commencement, extent and repeals

- (1) This Act may be cited as the Children and Young Persons (Scotland) Act, 1937.
- (2) This Act, except section twenty-nine thereof, shall come into operation on the first day of July nineteen hundred and thirty-seven.
- (3) Save as therein otherwise expressly provided, this Act shall extend only to Scotland.
- (4) The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULES

FIRST SCHEDULE

Sections 24, 25, 26, 47, 48, 65, 67, 71,
103, 111.

OFFENCES AGAINST CHILDREN AND YOUNG PERSONS, WITH RESPECT TO WHICH SPECIAL PROVISIONS OF THIS ACT APPLY

- (a) Any offence under the Criminal Law Amendment Act, 1885.
- (b) Any offence in respect of a child or young person which constitutes the crime of incest.
- (c) Any offence under sections twelve, thirteen, fourteen, fifteen, twenty-two or thirty-three of this Act.
- (d) Any other offence involving bodily injury to a child or young person.

SECOND SCHEDULE

Sections 85, 109.

PROVISIONS AS TO ADMINISTRATION OF APPROVED SCHOOLS AND TREATMENT OF PERSONS SENT THERETO

General Provisions

- 1 (1) The Scottish Education Department may make rules for the management and discipline of approved schools, and different rules may be made as respects different schools or classes of school.
- (2) The managers of an approved school may make supplementary rules for the management and discipline of the school, but rules so made shall not have effect unless approved by the Scottish Education Department.
- 2 No substantial addition to, or diminution or alteration of, the buildings or grounds of an approved school shall be made without the approval in writing of the Scottish Education Department.

Treatment of Pupils

- 3 A minister of the religious persuasion to which a person in an approved school belongs may visit him at the school on such days, at such times, and on such conditions, as may be fixed by rules made by the Scottish Education Department, for the purpose of affording him religious assistance and instruction.
- 4 If it appears to the managers of an approved school that a person who has been ordered to be sent to their school requires medical attention before he can properly be received into the school, or that a person detained in the school requires such attention, they may make arrangements for him to be received into and detained in any hospital, home or other institution where he can receive the necessary attention; and that person, while so detained, shall for the purposes of this Act be deemed to be under the care of the managers of the school, and shall, for the purposes of

section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913, be deemed to be detained in the school.

Power to Place out Pupils

5 At any time during the period of a person's detention in an approved school the managers of the school may grant leave to him to be absent therefrom in the charge of such person and for such period as they think fit, but during such leave he shall, for the purposes of this Act, be deemed to be under the care of the managers of the school, and the managers may at any time require him to return to the school.

6 (1) At any time during the period of a person's detention in an approved school the managers of the school may and, if the Scottish Education Department so direct, shall by licence in writing permit him to live with his parent, or with any trustworthy and respectable person (to be named in the licence) who is willing to receive and take charge of him :

Provided that, without the consent of the Scottish Education Department, a licence shall not be granted during the first twelve months of the period of a person's detention.

(2) The Scottish Education Department shall through their inspectors review the progress made by persons detained in approved schools with a view to ensuring that they shall be placed but on licence as soon as they are fit to be so placed out.

(3) The managers of the school may at any time by order in writing revoke any licence, and require the person to whom it relates to return to the school.

(4) For the purposes of this Act, a person who is out on licence from an approved school shall be deemed to be under the care of the managers of the school.

7 If a person under the care of the managers of an approved school conducts himself well, the managers of the school may, with his written consent, apprentice or place him in any trade, calling, or service, including service in the Navy, Army or Air Force, or may, with his written consent and with the written consent of the Scottish Education Department, arrange for his emigration.

Before exercising their powers under this paragraph, the managers shall, in any case where it is practicable so to do, consult with the parents of the person concerned.

Misconduct of Pupils

8 If a person detained in an approved school is guilty of serious misconduct, the managers, if authorised by the Scottish Education Department so to do, may bring him before a court of summary jurisdiction and that court may (notwithstanding any limitations contained in this Act upon the period during which he may be detained in an approved school) order him—

(a) if he is under the age of sixteen years, to have the period of his detention in the school increased by such period not exceeding six months as the court may direct; or

(b) if he has attained the age of sixteen years but is under the age of seventeen years, to have the period of his detention so increased, or to be sent to a Borstal institution for a period of two years; or

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- (c) if he has attained the age of seventeen years, to have the period of his detention so increased, or to be sent to a Borstal institution for two years, or to be imprisoned for three months.

Discharge and Transfer

- 9 (1) The Scottish Education Department may at any time order a person under the care of the managers of an approved school to be discharged, or to be transferred to the care of the managers of another school, or, with the consent of the Secretary of State, to the care of the managers of a school in England which is an approved school within the meaning of the Children and Young Persons Act, 1933.
- (2) Upon a person being so discharged or transferred as aforesaid, the Scottish Education Department shall cause notice to be sent to the education authority liable to make contributions in respect of him.
- (3) Where a person is transferred under the foregoing provisions of this paragraph to the care of the managers of a school in England, the provisions of this Act relating to contributions by parents, guardians and others, and education authorities, shall apply in respect of him as if the school in England were an approved school within the meaning of this Act, and if under the law in force in England he is retransferred to the care of the managers of a school in Scotland which is an approved school within the meaning of this Act, this Act shall have effect in relation to the retransfer as if it were a transfer under this paragraph from the care of the managers of one approved school in Scotland to the care of the managers of another approved school in Scotland.
- 10 The provisions of section seventy-two of this Act (which relate to religious persuasion) shall apply in relation to the transfer of persons to approved schools and orders made for that purpose as they apply in relation to the sending of persons to such schools and orders made for that purpose.
- 11 Where a person detained in an approved school is transferred to the care of the managers of another school, he shall be conveyed to his new school by and at the expense of the managers of the first-mentioned school.

Powers and duties of Managers and other Persons in Charge of Pupils

- 12 (1) Subject as hereinafter provided, all rights and powers exercisable by law by a parent shall as respects any person under the care of the managers of an approved school be vested in them:
- Provided that, where a person out on licence or under supervision from an approved school is lawfully living with his parents or either of them, the said rights and powers shall be exercisable by the parents or, as the case may be, by the parent with whom he is living; but it shall be the duty of any such parent so to exercise those rights and powers as to assist the managers to exercise control over him.
- (2) The managers of an approved school shall be under an obligation to provide for the clothing, maintenance and education of the persons under their care, except that while such a person is out on licence, or under supervision, their obligation shall be to cause him to be visited, advised and befriended and to give him assistance (including, if they think fit, financial assistance) in maintaining himself and finding suitable employment.
- 13 Every person who—

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- (a) is authorised by the managers of an approved school to take charge of a person under their care, or to apprehend such a person and bring him back to the school; or
- (b) is authorised by an education or poor law authority or, being a probation officer, is authorised by a court, to take to an approved school a person ordered to be detained therein,

shall, for the purposes of his duty as aforesaid, have all the powers, protection, and privileges of a constable.

Superannuation of Officers

14 The managers of any approved school may, as part of the expenses of the management of the school, pay, or contribute towards the payment of—

- (a) a superannuation allowance or gratuity—
 - (i) to any officer who retires by reason of old age or permanent infirmity of mind or body;
 - (ii) to any officer, who, in accordance with the terms of his appointment, is required to vacate his office by reason of the death, or the retirement on account of old age or permanent infirmity, of another officer;
- (b) a gratuity to any dependant of an officer who has died in the service of the school:

Provided that no payment or contribution in respect of any such superannuation allowance or gratuity shall be made unless it is made in accordance with rules approved by the Scottish Education Department with the concurrence of the Treasury for regulating the grant of such allowances and gratuities, or unless it is specially sanctioned by the Scottish Education Department.

THIRD SCHEDULE

Section 111.

TRANSITORY PROVISIONS

1 Any order, rule, or regulation made, any certificate given, and anything done, under any enactment repealed by this Act shall, for the purposes of this Act, be deemed to have been made, given or done under the corresponding provisions of this Act.

2 Any rule, byelaw, warrant or licence under any enactment repealed either by the Children and Young Persons (Scotland) Act, 1932 (hereinafter referred to as the Act of 1932) or by this Act and re-enacted, with or without modifications, by this Act shall have the like effect, and the like proceedings may be had thereon and in respect thereof, as if it had been made, made and confirmed, or granted, under this Act:

Provided that this paragraph shall not apply to rules made under section fifty-four of the Children Act, 1908 (hereinafter referred to as the Act of 1908), for the management and discipline of a certified school or to byelaws made under the Employment of Children Act, 1903.

3 Where before the commencement of the Act of 1932 an order has been made under the Act of 1908, committing a child or young person to the care of a relative or other fit person, this Act shall have effect in relation to the child or young person as if the order were an order made under this Act:

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Provided that, notwithstanding anything in this Act, the order shall not have effect for any longer period than the period for which it would have had effect if neither this Act nor the Act of 1932 had passed.

4 This Act shall apply in relation to a school which, at the first day of November, nineteen hundred and thirty-three, was a certified reformatory school or a certified industrial school as if the certificate for the school were a certificate of approval issued under this Act.

5 The Scottish Education Department may, if they think fit, approve for the purposes of this Act any school which on the twelfth day of July, nineteen hundred and thirty-two, was a certified day industrial school, and if they so approve any such school, the provisions of this Act shall apply in relation to that school and to children previously sent, or thereafter to be sent thereto, subject to such adaptations, modifications and exceptions as they may from time to time by order direct.

6 Subject to the provisions of this Schedule, this Act shall apply in relation to persons who at or after the first day of November, nineteen hundred and thirty-three, were or are lawfully detained in, or out on licence or under supervision from, or are absentees from, a certified school, as if they were persons detained in, or out on licence or under supervision from, or absentees from, an approved school under the provisions of this Act:

Provided that the periods for which such persons are liable to be detained in approved schools and to remain under the supervision of the managers shall (except so far as increased by virtue of the provisions of this Act relating to persons guilty of misconduct in schools or of escaping, running away or refusing to return when recalled) be such as if neither this Act nor the Act of 1932 had passed.

7 Where a child or young person has, before the first day of November, nineteen hundred and thirty-three, been ordered to be sent to a certified school, it shall be the duty of the council or authority, if any, who under the Act of 1908 were liable to provide for his reception and maintenance in the school to make such contributions in respect of him as would by this Act be required to be made if he had been sent to the school under an approved school order and they were the education authority named in that order as being the authority within whose area he was resident: and if in any such case as aforesaid—

- (a) it had not been determined at the commencement of the Act of 1932 who are the council or authority who are responsible as aforesaid; or
- (b) proceedings might but for the passing of this Act and the Act of 1932 have been had for varying a determination as to that question,

the like proceedings may be had for determining the question and for varying any determination in respect thereof as might have been had if neither this Act nor the Act of 1932 had passed.

8 Where a child or young person has before the first day of November, nineteen hundred and thirty-three, been ordered to be sent to a certified school at the instance of a county, town or parish council, the county or town council concerned shall be under the like obligation to make contributions to the expenses of the managers of the school as they would be under if he had been sent to the school by virtue of an approved school order made on their application in their capacity as a poor law authority.

9 Where before the first day of November, nineteen hundred and thirty-three, a child or young person was committed to the care of a relative or other fit person or was

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- ordered to be sent to a certified school and an order was in force at that date requiring any person liable to maintain him to contribute to his maintenance, or requiring the whole or any part of any payment under a decree for aliment to be paid to a person named in the order, this Act shall apply in relation to the order as if it had been made under this Act, and where the order provides for the making of payments to the Scottish Education Department, it shall, by virtue of this Act and without more, be deemed to provide that the payments shall be made to the education authority within whose area the person liable to make the payments is from time to time resident.
- 10 Where in pursuance of section fifty-three of the Act of 1908 a child has been boarded out by the managers of a certified school, this Act shall apply in relation to that child—
- (a) if the managers are a county or town council or an education authority, as if he had been committed under this Act to their care and had been boarded out by them under this Act;
 - (b) if the managers are not a county or town council or an education authority, as if he were out on licence from the school.
- 11 Where before the first day of November, nineteen hundred and thirty-three, a child or young person entered into a bond under the proviso to subsection (4) of section fifty-eight of the Act of 1908 or under section sixty of that Act, the provisions of section seventy of this Act shall apply as if such an order as is mentioned in that section had been made placing him under the supervision of a probation officer, and the bond shall cease to have effect.
- 12 The repeal by the Act of 1932 of the provisions of the Act of 1908 relating to places of detention shall not render illegal the custody of a child or young person in such a place unless and until a remand home for the area in question has been provided in substitution therefor, and when such a home has been provided, the children or young persons in custody in the place of detention shall be transferred to and kept in custody in the home.

FOURTH SCHEDULE

Section 113.

ENACTMENTS REPEALED

Session and Chapter.	Short Title.	Extent of Repeal.
8 Edw. 7. c. 67	The Children Act, 1908.	The whole Act so far as unrepealed, except section one hundred and twenty-two, section one hundred and thirty-two (so far as necessary for the application to Scotland of the first mentioned section), and subsection (1) of section one hundred and thirty-four.
10 Edw. 7. & 1 Geo. 5. c. 25.	The Children Act (1908) Amendment Act, 1910.	The whole Act.

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Session and Chapter.	Short Title.	Extent of Repeal.
22 & 23 Geo. 5. c. 47.	The Children and Young Persons (Scotland) Act, 1932.	The whole Act except sections nine and seventy-three, subsection (1) of section eighty-three from the beginning to the words "Act, 1932," and subsection (3) of section eighty-three.
26 Geo. 5. & 1 Edw. 8. c. 42.	The Education (Scotland) Act, 1936.	Section five.