



# Public Health Act 1936

## 1936 CHAPTER 49

### PART VII

#### NOTIFICATION OF BIRTHS; MATERNITY AND CHILD WELFARE, AND CHILD LIFE PROTECTION.

##### *Child life protection.*

#### **206 Notices to be given by persons receiving children for reward.**

- (1) A person who undertakes for reward the nursing and maintenance of a child under the age of nine years apart from his parents, or having no parents, shall give notice thereof to the welfare authority—
- (a) in the case of a child not already in his care, being the first child under the age of nine years proposed to be received by him for reward in the premises 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 proceedings in respect of a failure to give such notice as aforesaid, it shall be a defence for the defendant to prove that he received the child upon an emergency and gave notice within twenty-four hours thereafter.

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, any premises in which he is to be, or is being, kept, whether in the

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daytime or at night, and the name and address of the person from whom he is to be, or was, received.

- (3) In the following provisions of this Part of this Act a child under the age of nine years in respect of whom a notice has been or ought to have been given under this section, or under subsection (2) of the next succeeding section, or under section one of the Children Act, 1908, and who is still living apart from his parents, if any, with the person by whom the notice was, or ought to have been, given, is referred to as a "foster child."

**207 Notices to be given if residence is changed, or if foster child dies, or is removed.**

- (1) If a person who is maintaining a foster child changes his residence, he shall at least seven days before so doing give to the welfare authority notice of the change, and, where the residence to which he moves is situate in the area of another welfare authority, he shall at least seven days before so moving give to that welfare authority the like notice as respects each foster child in his care as he is required to give on the first reception of a foster 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.

- (2) If a person who in London, or in any place outside England and Wales, is nursing and maintaining for reward a child under the age of nine years apart from his parents or having no parents, comes to reside in the area of a welfare authority, he shall, within forty-eight hours give to that authority the like notice in respect of every such child in his care as he is required to give on the first reception of a foster child.
- (3) If a foster 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 welfare 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.

**208 Penalties for failure to give notices.**

- (1) If any person required to give a notice under either of the two last preceding sections fails to give the notice before the latest time specified for giving the notice, he shall be guilty of an offence and, if the consideration for the nursing and maintenance of the child in respect of whom 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.
- (2) Where under this section any such sum as aforesaid is ordered to be forfeited, the order may be enforced as if it were an order for the payment of a civil debt recoverable summarily.
- (3) For the purposes of any enactment by which the time for taking proceedings is limited, an offence under this section 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.

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## **209 Appointment and powers of child protection visitors.**

- (1) Every welfare authority shall from time to time make inquiry whether there are any persons residing within their area who undertake the nursing and maintenance of foster children.
- (2) If any such persons are found, the welfare authority shall appoint one or more persons to be child protection visitors, whose duty it shall be to visit from time to time any foster children and the premises in which they are kept in order to satisfy themselves as to the health and well-being of the children and to give any necessary advice or directions as to the care of their health and their maintenance:

Provided that the authority may, either in addition to or in lieu of appointing child protection visitors, authorise 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 welfare authority.

Where a welfare 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) If a person who undertakes the nursing and maintenance of a foster child refuses to allow any such visitor or other person to visit or examine the child or the premises in which the child is kept, he shall be guilty of an offence.
- (4) If any such visitor or other person is refused admission to any premises in contravention of this Part of this Act, or has reason to believe that a child under the age of nine years is being kept in any premises in contravention of this Part of this Act, he may apply to a justice of the peace, and the justice, if satisfied on sworn information in writing that admission has been so refused, or that there is reasonable ground for behaving 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 such offence as aforesaid has been committed, and, if any person obstructs any visitor or other person acting in pursuance of such a warrant, he shall be guilty of an offence.

## **210 Persons prohibited from receiving foster children.**

A foster child shall not without the consent of the welfare authority be kept—

- (a) by any person from whose care any child or infant has been removed under this Part of this Act, Part I of the Children Act, 1908, or the Infant Life Protection Act, 1897; or
- (b) in any premises from which any child or infant 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 under the Infant Life Protection Act, 1897, by reason of the premises being so unfit as to endanger the health of the child or infant; or
- (c) by any person who has been convicted of any offence under Part I of the Children and Young Persons Act, 1933, or Part II of the Children Act, 1908, or any offence of cruelty under the Prevention of Cruelty to Children Act, 1904,

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

**211 Power of welfare authority to prevent overcrowding where foster children kept.**

- (1) The welfare authority may fix the maximum number of children under the age of nine years who may be kept in any premises in which a foster child is kept, and may also impose conditions to be complied with so long as the number of children kept in the premises exceeds a specified number.
- (2) If the maximum number so fixed is exceeded, or if any condition so imposed is not complied with, a person who keeps a foster child in those premises shall be guilty of an offence.

**212 Removal of foster children kept in unsuitable premises, or by unsuitable persons.**

- (1) If a foster child 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 the child; 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,

a court of summary jurisdiction may, on the application of the welfare authority, make an order for 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 (acting, if he deems it necessary, *ex parte*) 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.

- (2) An order made under the foregoing subsection may be enforced 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 visitor or person as aforesaid in the enforcement of the order, shall be guilty of an offence.

**213 Death of foster child to be notified to coroner.**

- (1) In the case of the death of a foster child, the person who had the care of the child shall within twenty-four hours of the death give notice in writing thereof to the coroner of the district within which the body of the child lies, and the coroner shall hold an inquest thereon, unless there is produced to him a certificate of a registered medical practitioner certifying that that practitioner has personally attended the child during his last illness and certifying also the cause of death, and the coroner is satisfied that there is no ground for holding an inquest.
- (2) If the person required to give notice under this section fails to give notice within the time specified for the purpose, he shall be guilty of an offence.

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**214 Avoidance of insurances on lives of foster children.**

A person who keeps a foster child 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 a foster child, he shall be guilty of an offence 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 a foster child, the company, society, or person shall be guilty of an offence.

**215 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 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.
- (2) Any person who causes to be published, or knowingly publishes, an advertisement in contravention of the provisions of this section shall be guilty of an offence.

**216 Offences in connection with notices under this Part of Act.**

If any person required to give any notice under the foregoing provisions of this Part of this Act relating to child life protection knowingly 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.

**217 Other offences under this Part of Act.**

Any person guilty of an offence under the foregoing provisions of this Part of this Act relating to child life protection shall be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty-five pounds, or to both such imprisonment and such fine, and the court may order any child in respect of which the offence was committed to be removed to a place of safety.

**218 Welfare authority may maintain child in place of safety.**

Where a child is removed under this Part of this Act to a place of safety, the welfare authority may defray the expenses of his maintenance therein.

**219 Exemptions from this Part of Act.**

- (1) The foregoing provisions of this Part of this Act relating to child life protection 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 of any order made under any such Act, or undertakes the nursing and maintenance of a child boarded out under subsection (3) of section eighty-four of the Children and Young Persons Act, 1933, or to any school, hospital, convalescent home, voluntary home within the meaning of the Children and Young Persons Act, 1933, or other institution, being a school, hospital, home or institution—

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- (a) which is maintained by a Government department, county council (including the London County Council), local authority or metropolitan borough council, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter; or
- (b) in respect of which a certificate of exemption from the said provisions granted by the welfare authority is in force; or
- (c) which is an institution, house, or home certified or approved by the Board of Control under the Mental Deficiency Acts, 1913 to 1927, and in which no children or young persons who are not mental defectives within the meaning of those Acts are received;

nor shall the said provisions apply in relation to any mental defective who is under care elsewhere than in a certified institution, certified house or approved home, if he is so under care with the consent of the Board of Control, or if notice with respect to him has been given to the Board in accordance with subsection (2) of section fifty-one of the Mental Deficiency Act, 1913.

- (2) Where a person undertakes the nursing and maintenance of children who are boarded out with that person in succession for short holidays only by a bona fide charitable organisation, the welfare authority may exempt that person from the obligation to give notice under this Part of this Act in respect of each individual child received, on condition that notice is given in respect of the first such child received by that person in each year, but for the purposes of the other provisions of this Part of this Act a child in respect of whom notice ought, but for such exemption, to have been given shall be deemed to be a foster child.
- (3) A welfare 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 by child protection visitors.
- (4) An exemption granted under this section, or under any corresponding enactment repealed by this Act, may at any time be withdrawn by the welfare authority.

## **220 Interpretation of Part VII.**

In this Part of this Act—

the expression "relative" means a grandparent, brother, sister, uncle, or aunt, whether by consanguinity or affinity, or in consequence of adoption, and, in the case of an illegitimate child, a person who would be so related if the child were legitimate;

the expression "adoption" means adoption under the Adoption of Children Act, 1926, or any corresponding enactment applicable to Scotland or Northern Ireland;

the expression "legal guardian" means a person appointed according to law to be the guardian of a child, either by deed or will, or by order of a court of competent jurisdiction; and

the expression "place of safety" means a remand home, public assistance institution, or police station, or any hospital, surgery or other suitable place, the occupier of which is willing temporarily to receive a child.