

CHILDREN AND YOUNG PERSONS ACT 1933

Entertainments and Performances

23. Prohibition against [children] taking part in performances endangering life or limb.

No person under the age of sixteen years and no child aged sixteen years shall take part in any performance **(a)** to which S 37 (2) of the Children and Young Persons Act 1963 applies and in which his life or limbs are endangered and every person who causes or procures such a person or child, or being his parent or guardian **(b)** allows him, to take part in such a performance, shall be liable on summary conviction to a fine not exceeding **level 3** on the standard scale: Provided that no proceedings shall be taken under this subsection except by or with the authority of a chief officer of police.

[Children and Young Persons Act 1933, s 23, as amended by Criminal Justice Act 1967, 3rd Sch, the Children and Young Persons Act 1963, Sch 3, the Criminal Justice Act 1982, ss 35, 38 and 46 and the Employment of Children Act 1989, Sch 3.]

(a) "Performance of a dangerous nature" includes all acrobatic performances and all performances as a contortionist (s 30 post).

24. Restrictions on training for performances of a dangerous nature.

- (1) No child under the age of twelve years shall be trained to take part in performances of a dangerous nature, and no child who has attained that age 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 of a dangerous nature in contravention of this section, shall be liable on summary conviction to a fine not exceeding **level 3** on the standard scale.
- (2) A local authority may grant a licence for a child who has attained the age of twelve years to be trained to take part in performances of a dangerous nature.
- (3) 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 is 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.

[Children and Young Persons Act 1963, Sch 3, the Criminal Justice Act 1982, ss 35, 38 and 46 and the Employment Act 1989, Sch 3.]

Employment Abroad

25. Restrictions on [children] going abroad for the purpose of performing for profit.

- (1) No person having responsibility for any child shall allow him, nor shall any person cause or procure any child, to go abroad **(a)** for the purpose of singing, playing,

performing, or being exhibited for profit or (b) for the purpose of taking part in a sport, or working as a model, where payment in respect of his doing so, other than for defraying expenses, is made to him or to another person, unless a licence has been granted in respect of him under this section: Provided that this subsection shall not apply in any case where it is proved that the child was only temporarily resident within the United Kingdom.

- (2) A justice of the peace may grant a licence in such form as the Secretary of State may prescribe, and subject to such restrictions and conditions as the justice of the peace thinks fit, for any child who has attained the age of fourteen years to go abroad for any purpose referred to in subsection (1) of this section; but no such licence shall be granted in respect of any person unless the justice of the peace is satisfied -
- (a) that the application for the licence is made by or with the consent of his parent or guardian;
 - (b) that he is going abroad to fulfil a particular engagement;
 - (c) that he is fit for the purpose, and that proper provision has been made to secure his health, kind treatment and adequate supervision while abroad, and his return from abroad at the expiration or revocation of the licence;
 - (d) that there has been furnished to him a copy of the contract of employment or other document showing the terms and conditions of employment drawn up in a language understood by him.

- (3) A person applying for a licence under this section, shall at least seven days before the application, give to the chief officer of police for the district in which the person resides to whom the application relates, notice of the intended application together with a copy of the contract of employment or other document showing the terms and conditions of employment, and the chief officer of police shall send that copy to a justice of the peace and may make a report in writing on the case to him or may appear, or instruct some person to appear, before him and show why the licence should not be granted, and the justice of the peace shall not grant the licence unless he is satisfied that notice has been properly so given.

Provided that if it appears that the notice was given less than seven days before the making of the application, the justice of the peace may nevertheless grant a licence if he is satisfied that the officer to whom the notice was given has made sufficient enquiry into the facts of the case and does not desire to oppose the application.

- (4) A licence under this section shall not be granted for more than three months but may be renewed by a justice of the peace from time to time for a like period, so, however, that no such renewal shall be granted, unless the justice of the peace -
- (a) is satisfied by a report of a British consular officer or other trustworthy person that the conditions of the licence are being complied with;
 - (b) is satisfied that the application for renewal is made by or with the consent of the parent or guardian of the person to whom the licence relates.
- (5) A justice of the peace -
- (a) may vary a licence granted under this section and may at any time revoke such a licence for any cause which he, in his discretion, considers sufficient;
 - (b) need not, when renewing or varying a licence under this section, require the attendance before him of the person to whom the licence relates.

- (6) The justice of the peace to whom the application is made for the grant, renewal or variation of a licence shall, unless he is satisfied that in the circumstances it is unnecessary, require the applicant to give such security as he may think fit (either by entering into a recognisance with or without sureties or otherwise) for the observance of the restrictions and conditions in the licence or in the licence as varied, and the recognisance may be enforced in like manner as a recognisance for doing some matter or thing required to be done in a proceeding before the court of summary jurisdiction is enforceable.
- (7) If in any case where a licence has been granted under this section, it is proved to the satisfaction of a justice of the peace that by reason of exceptional circumstances it is not in the interests of the person to whom the licence relates to require him to return from abroad at the expiration of the licence, then notwithstanding anything in this section or any restriction or condition attached to the licence, the justice of the peace may by order release all persons concerned from any obligation to cause that person to return from abroad.
- (8) Where a licence is granted, renewed or varied under this section, the justice of the peace shall send the prescribed particulars to the Secretary of State for transmission to the proper consular officer, and every consular officer shall register the particulars so transmitted to him and perform such other duties in relation thereto as the Secretary of State may direct.
- (9) *Repealed*
- (10) This and the next following section extend to Scotland and Northern Ireland. [Children and Young Persons Act 1989, Sch 3 and the Children Act 1989, Sch 13.]

(a) "Abroad" means outside Great Britain and Ireland (s 30).

26. Punishment of contravention of last foregoing section and proceedings with respect thereto.

- (1) If any person acts in contravention of the provisions of subsection (1) of the last foregoing section he shall be guilty of an offence under this section and liable on summary conviction, to a fine not exceeding **level 3** on the standard scale, or, alternatively, or in addition thereto, to imprisonment for any term not exceeding **three months**: Provided that if he procured the child in question to go abroad by means of any false pretence or false representation, he shall be liable on conviction on indictment to imprisonment for any term not exceeding **two years**.
- (2) Where, in proceedings under this section against a person, it is proved that he caused, procured, or allowed a child to go abroad and that (a) the child has while abroad been singing, playing, performing, or being exhibited, for profit or (b) that child has while abroad taken part in a sport, or worked as a model, and payment in respect of his doing so, other than for defraying expenses, was made to him or to another person, the defendant shall be presumed to have caused, or allowed him to go abroad for that purpose, unless the contrary is proved: Provided that where the contrary is proved, the court may order the defendant to take such steps as the court directs to secure the return of the child to the United Kingdom, or to enter into a

recognisance to make such a provision as the court may direct to secure his health, kind treatment, and adequate supervision while abroad, and his return to the United Kingdom at the expiration of such period as the court may think fit.

- (3) Proceedings in respect of an offence under this section or for enforcing a recognisance under this or the last foregoing section may be instituted at any time within a period of three months from the first discovery by the person taking the proceedings of the commission of the offence, or as the case may be, the non-observance of the restrictions and conditions contained in the licence, or, if at the expiration of that period the person against whom it is proposed to institute the proceedings is outside the United Kingdom, at any time within six months after his return to the United Kingdom.
- (4) In such proceedings as aforesaid, a report of any British consular officer and any deposition made on oath before a British consular officer and authenticated by the signature of that officer, respecting the observance or non-observance of the conditions or restrictions contained in a licence granted under the last foregoing section shall, upon proof that the consular officer, or deponent, cannot be found in the United Kingdom, be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person appearing to have signed any such report or deposition.

(5) *Repealed*

[Children and Young Persons Act 1933, s 26, as amended by the Children and Young Persons Act 1963, Sch3 the Children and Young Persons Act 1969, Sch 6 the Criminal Justice Act 1982, ss 38 and 46, the Police and Criminal Evidence Act 1984, Sch 7 and the Employment Act 1989, Sch 3.1]

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- (a) This order will be enforceable under Magistrates' Court Act 1980, s63, ante. For provisions as to proceedings under this Part of the Act, see note (b) in para **5-91**, supra.
 - (b) These words in the repealed Children (Employment Abroad) Act 1913, were to be construed as including the Republic of Ireland (Irish Free State (Consequential Adaptation of Enactments) Order 1923, SR & O 1923/405). This provision is not affected by the fact that the Republic of Ireland is not part of Her Majesty's dominions (Ireland Act 1949, s 3).

Supplemental

28. Powers of Entry

- (1) If it is made to appear to a justice of the peace by the local authority, or by any constable, that there is reasonable cause to believe that the provisions of this Part of the Act, other than those relating to employment abroad, or of a Byelaw made under the said provisions, are being contravened with respect to any person, the justice may by order under his hand addressed to an officer of the local 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 a performance, being trained, taking part in a sport, or working as a model, and to make enquiries therein with respect to that person.
- (2) Any authorised officer of the said authority or any constable may -
 - (a) at any time enter any place used as a broadcasting studio or film studio or used for the recording of a performance with a view to its use in a programme service or in a film intended for public exhibition and make inquiries therein as to any

children taking part in performances to which subsection (2) of section 37 of the Children and Young Persons Act 1963 applies;

- (b) at any time during the currency of a licence granted under the said section 37, or under the provisions of this Part of the Act relating to training for dangerous performances enter any place (whether or not it is such a place as mentioned in paragraph (a) of this subsection) where the person to whom the licence relates is authorised by the licence to do anything 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 enquiry 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 **level 2** on the standard scale **(a)**.

- (4) In this section -
“broadcasting studio” means a studio used in connection with the provision of a programming service;
“programme service” has the same meaning as in the Broadcasting Act 1990.
[Children and Young Persons Act 1933, s 287 as amended by the Children and Young Persons Act 1963, Sch 3, the Criminal Law Act 1977, s 31, the Criminal Justice Act 1982, s 46, the Cable and Broadcasting Act 1984, Sch 5 and the Broadcasting Act 1990. Schs 20 and 21.]

29. Savings

- (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.
[Children and Young Persons Act 1933, S 29, as amended by the Children and Young Persons Act 1963, Sch 3 and the Children and Young Persons Act 1969, Sch 6.]

30. Interpretation of Part II

- (1) For the purposes of the Part of this Act and of any Byelaws made thereunder, the expression “child” means -
- (a) in relation to England and Wales, a person who is not over compulsory school age (construed in accordance with section 8 of the Education Act 1966);
 - (b) in relation to Scotland, a person who is not for the purposes of the Education (Scotland) Act 1980 over school age; and
 - (c) in relation to Northern Ireland, a person who is not for the purposes of the Education and Libraries (Northern Ireland) Order 1986 over compulsory school age;

The expression “performance of a dangerous nature” includes all acrobatic performances and all performances as a contortionist; 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 the streets or public places; 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; 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; and the expression “abroad” means outside Great Britain and Ireland.

(2) This section, so far as it has effect for the purposes of sections 25 and 26 of this Act, extends to Scotland and Northern Ireland.

[Children and Young Persons Act 1933, s 30 as amended by the Employment Act 1989, Sch 3 and the Education Act 1996, Sch 37.]

(a) “street trading” means seeking custom in the street, and does not include business between a shop and customers in their homes. Street trading is not confined to trading on his own account (*Stratford Co-operative Society v East Ham Corpn* [1915] 2 KB 70, 79 JP 227; *Morgan v Parr* [1921] 2 KB 379, 85 JP 165; *Sweet v Williams* (1922) 87 JP 51; *Vann v Eatough* (1935) 99 JP 385). In *Newman v Lipman* [1951] 1 KB 333, [1950] 2 All ER 8322, 114 JP 561; a prosecution against a street photographer for “street trading” by taking photographs was unsuccessful.