

CHILDREN & YOUNG PERSONS ACT 1963

Part II

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

s37 Restriction on persons under 16 taking part in public performances, etc.

- (1) Subject to the provisions of this section, a child shall not -
- (a) take part in a performance to which subsection (2) of this section applies, or
 - (b) otherwise take part in a sport, or work as a model, where payment in respect of his doing so, other than for defraying expenses, is made to him or to another person, except under the authority of a licence granted by the local authority in whose area he resides or, if he does not reside in Great Britain, by the local authority in whose area the applicant or one of the applicants for the licence resides or has his place of business.
- (2) This subsection applies to -
- (a) any performance in connection with which a charge is made (whether for admission or otherwise);
 - (b) any performance in licenced premises within the meaning of the Licensing Act [1964] or the Licensing (Scotland) Act 1959 or in premises in respect of which a club is registered under said Act of 1959 or the Licensing Act [1964];
 - (c) any broadcasting performance;
 - (d) any performance not falling within paragraph (c) above but included in a programme service (within the meaning of the Broadcasting Act 1990);
 - (e) any performance recorded (by whatever means) with a view to its use in a broadcast or such service or in a film intended for public exhibition;

and a child shall be treated for the purposes of this section as taking part in a performance if he takes the place of a performer in any rehearsal or in any preparation for the recording of the performance.

- (3) A licence under this section shall not be required for any child to take part in a performance to which subsection (2) of this section applies if no payment in respect of his taking part in the performance, other than for defraying expenses, is made to him or to another person, and -
- (a) in the six months preceding the performance he has not taken part in other performances to which subsection (2) of this section applies on more than three days; or
 - (b) the performance is given under the arrangements made by a school (within the meaning of the Education Act 1996 or the Education (Scotland) Act 1962) or made by a body of persons approved for the purposes of this section by the Secretary of State or by the local authority in whose area the performance takes place.

but the Secretary of State may by regulations **(a)** made by statutory instrument prescribe conditions to be observed with respect to the hours of work, rest or meals of children taking part in performances as mentioned in paragraph (a) of this subsection.

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- (a)** The Secretary of State has made the Children (Performances and Activities) (England) Regulations 2014, SI 2014 No 3309

- (4) The power to grant licences under this section shall be exercisable subject to such restrictions and conditions as the Secretary of State may by regulations made under statutory instrument prescribe and a local authority shall not grant a licence for a child to do anything unless they are satisfied that he is fit to do it, that proper provision has been made to secure his health and kind treatment and that, having regard to such provision (if any) as has been or will be made therefore, his education will not suffer, but if they are so satisfied, in the case of an application duly made for a licence under this section which they have power to grant, they shall not refuse to grant the licence.
- (5) Regulations under this section may make different provision for different circumstances and may prescribe, among the conditions subject to which a licence is to be granted, conditions requiring the approval of a local authority and may provide for that approval to be given subject to conditions imposed by the local authority.
- (6) Without prejudice to the generality of the preceding subsection, regulations under this section may prescribe, among the conditions subject to which a licence may be granted, a condition requiring sums earned by the child in respect of whom the licence is granted in any activity to which the licence relates to be paid into the county court (or, *application to Scotland*) or dealt with in a manner approved by the local authority.
- (7) A licence under this section shall specify the times, if any, during which the child in respect of whom it is granted may be absent from school for the purposes authorised by the licence; and for the purposes of the enactments relating to the education a child who is so absent during any times so specified shall be deemed to be absent with leave granted by a person authorised in that behalf by the managers, governors or proprietor of the school or, (*application to Scotland*).
- (8) Any statutory instrument made under this section shall be subject to an annulment in pursuance of a resolution of either House of Parliament. [Children & Young Persons Act 1963, s 37 as amended by the Cable and Broadcasting Act 1984, Sch 5, the Broadcasting Act 1990, Sch 20 and the Education Act 1996, Sch 37].

38. Restriction on licences for performances by children under 14.

- (1) *Repealed – [May 2014]*
- (2) *Repealed* -[Children and Young Persons Act 1963, s38 as amended by the Education Act 1996, Sch 37].

39. Supplementary provisions as to licences under section 37.

- (1) A licence under section 37 of this Act may be varied on the application of the person holding it by the local authority by whom it was granted or by any local authority in whose area any activity to which it relates takes place.
- (2) The local authority by whom such a licence was granted, and any local authority in whose area any activity to which it relates takes place, may vary or revoke the licence if any condition subject to which it was granted is not observed or they are not satisfied as to the matters mentioned in subsection (4) of the said section 37, but shall, before doing so, give to the holder of the licence such notice (if any) of their intention as may be practicable in the circumstances.
- (3) Where a local authority grant such a licence authorising the child to do something in the area of another local authority they shall send to that other authority such

particulars as the Secretary of State may by regulations made by statutory instruments prescribe; and where a local authority vary or revoke such a licence which was granted by, or relates to an activity in the area of, another local authority, they shall inform that other authority.

- (4) A local authority proposing to vary or revoke such a licence granted by another local authority shall, if practicable, consult that other authority.
- (5) The holder of such a licence shall keep such records as the Secretary of State may by regulations made by statutory instrument prescribe and shall on request produce them to an officer of the authority who granted the licence, at any time not later than six months after the occasion or last occasion to which it relates.
- (6) Where a local authority refuse an application for a licence under section 37 of this Act or revoke or, otherwise than on the application of the holder, vary such a licence they shall state their grounds for doing so in writing to the applicant, or as the case may be, the holder of the licence; and the applicant or holder may appeal to a magistrates' court or, (*application to Scotland*), against the refusal, revocation or variation, and against any condition subject to which the licence is granted or any approval is given, not being a condition which the local authority are required to impose.
- (7) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
[Children and Young Persons Act 1963, s 39.]

40. Offences

- (1) If any person -
 - (a) causes or procures any child, or being his parent or guardian, allows him, to do anything in contravention of section 37 of this Act; or
 - (b) fails to observe any condition subject to which a licence under that section is granted, or any condition prescribed under subsection (3) of that section; or
 - (c) knowingly or recklessly makes any false statement in or in connection with an application for a licence under that section;
he shall be liable on summary conviction to a fine not exceeding **level 3** on the standard scale or imprisonment for a term not exceeding **three months** or **both**.
- (2) If any person fails to keep or produce any record which he is required to keep or produce under section 39 of this Act, he shall be liable on summary conviction to a fine not exceeding **level 3** on the standard scale or imprisonment for a term not exceeding **three months** or **both**.
- (3) The court by which the holder or one of the holders of a licence under section 37 of this Act is convicted of an offence under this section may revoke the licence.
- (4) In any proceedings for an offence under this section alleged to have been committed by causing, procuring or allowing a child to take part in a performance without a licence under section 37 of this Act it shall be a defence to prove that the accused believed that the condition specified in paragraph (a) of subsection (3) of that section was satisfied and that he had reasonable grounds for that belief.

[Children and Young Persons Act 1963, s 40 as amended by the Criminal Justice Act 982, ss 38 and 46.]

41. Licences for training [children] for performances of a dangerous nature.

- (1) The power to grant licences under section 24 of the principal Act (which relates to the training of children to take part in performances of a dangerous nature) shall be exercisable by the local authority for the area of one of the areas in which the training is to take place instead of by a magistrates' court.
- (2) A licence under the said section 24 or (*application to Scotland*) may be revoked or varied by the authority who granted it if any of the conditions embodied therein are not complied with or if it appears to them that the person to whom the licence relates is no longer fit and willing to be trained or that proper provision is no longer being made to secure his health and kind treatment.
- (3) Where an authority refuse an application for such a licence or revoke or vary such a licence they shall state their grounds for doing so in writing to the applicant, or, as the case may be, to the holder of the licence, and the applicant or holder may appeal to a magistrates' court or, (*application to Scotland*), against the refusal, revocation or variation.

[Children and Young Persons Act 1963, s 41 amended by the Employment Act 1989, Sch 6.]

42. Licences for children performing abroad.

- (1) Section 25 of the principal Act (which prohibits children from going abroad for certain purposes except under the authority of a licence granted under that section) and section 26 of that Act (which imposes penalties for contraventions) shall have effect as if the words "singing, playing, performing or being exhibited" include taking part in any such performance as is mentioned in paragraph (c) or (d) of section 37(2) of this Act.
- (2) A licence under the said section 25 may be granted in relation to a purpose referred to in subsection (1)(a) of that section in respect of a person notwithstanding that he is under the age of fourteen if -
 - (a) the engagement which he is to fulfil is for acting and the application for the licence is accompanied by a declaration that the part he is to act cannot be taken except by a person of about his age; or
 - (b) the engagement is for dancing in a ballet which does not form part of an entertainment of which anything other than ballet or opera also forms part and the application for the licence is accompanied by a declaration that the part he is to dance cannot be taken except by a child of about his age; or
 - (c) the engagement is for taking part in a performance the nature of which is wholly or mainly musical or which consists only of opera and ballet and the nature of his part in the performance is wholly or mainly musical.

[Children and Young Persons Act 1963, s42 as amended by the Employment Act 1989, Sch 6.]

44. Construction of Part II

- (1) This part of the Act, in its application to England and Wales, and, as regards section 42, in its application elsewhere, shall be construed, and Part II of the principal Act shall have effect, as if this Part were included in that Part.
- (2) (*Applies to Scotland*) [Children and Young Persons Act 1963, s44]