



# Children and Young Persons Act 1933

1933 CHAPTER 12 23 and 24 Geo 5

## PART III

### PROTECTION OF CHILDREN AND YOUNG PERSONS IN RELATION TO CRIMINAL AND SUMMARY PROCEEDINGS

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

- C1** Pt. III amended by [Local Authority Social Services Act 1970 \(c. 42\)](#), s. 2(1), [Sch. 1](#) and (1.4.1981) by [Child Care Act 1980 \(c. 5\)](#), [ss. 78\(1\)\(2\)\(b\)](#), 79(1)(4)(5)(b). ([Child Care Act 1980 \(c.5\)](#) repealed (14.10.1991) with saving by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6)(7), [Sch. 14 paras. 21, 27\(4\)](#), [Sch. 15](#); S.I. 1991/828, [art. 3\(2\)](#))

#### *General Provisions as to Preliminary Proceedings*

### **31 Separation of children and young persons from adults in police stations, courts, &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 awaiting 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.

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

- C2** S. 31 applied (with modifications) by 1994 c. 33, s. 137D(2)(d) Sch. 7B Pt. 1 (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 116\(1\)\(3\)](#), [183\(1\)\(5\)\(e\)](#), [Sch. 16](#)); S.I. 2018/227, [art. 2\(f\)](#))

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**32** ..... F1

**Textual Amendments**  
F1 Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72, [Sch. 6](#)

**33** ..... F2

**Textual Amendments**  
F2 Ss. 33, 52 repealed by [Criminal Justice Act 1948 \(c. 58\)](#), [Sch. 10 Pt. I](#)

[<sup>F3</sup>34 **Attendance at court of parent of child or young person charged with an offence, &c.**

<sup>F4</sup>(1) .....

[ Where a child or young person is in police detention, such steps as are practicable <sup>F5</sup>(2) shall be taken to ascertain the identity of a person responsible for his welfare.

(3) If it is practicable to ascertain the identity of a person responsible for the welfare of the child or young person, that person shall be informed, unless it is not practicable to do so—

- (a) that the child or young person has been arrested;
- (b) why he has been arrested; and
- (c) where he is being detained.

(4) Where information falls to be given under subsection (3) above, it shall be given as soon as it is practicable to do so.

(5) For the purposes of this section the persons who may be responsible for the welfare of a child or young person are—

- (a) his parent or guardian; or
- (b) any other person who has for the time being assumed responsibility for his welfare.

(6) If it is practicable to give a person responsible for the welfare of the child or young person the information required by subsection (3) above, that person shall be given it as soon as it is practicable to do so.

(7) If it appears that at the time of his arrest a supervision order, as defined in<sup>F6</sup>. . . [<sup>F7</sup> Part IV of the Children Act 1989], is in force in respect of him, the person responsible for his supervision shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.

[ If it appears that at the time of his arrest the child or young person is being provided <sup>F8</sup>(7A) with accommodation by or on behalf of a local authority under section 20 of the Children Act 1989 [<sup>F9</sup>or section 76 of the Social Services and Well-being (Wales) Act

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2014], the local authority shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.]

[ If it appears that at the time of his arrest a youth rehabilitation order, as defined in <sup>F10</sup>(7B) [<sup>F11</sup>section 173 of the Sentencing Code], is in force in respect of him, the responsible officer, as defined in [<sup>F12</sup>section 191 of that Code], shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.]

(8) The reference to a parent or guardian in subsection (5) above is —  
<sup>F13</sup> . . . in the case of a child or young person in the care of a local authority, a reference to that authority; <sup>F14</sup> . . .  
<sup>F14</sup> . . . . .

(9) The rights conferred on a child or young person by subsections (2) to (8) above are in addition to his rights under section 56 of the Police and Criminal Evidence Act 1984.

(10) The reference in subsection (2) above to a child or young person who is in police detention includes a reference to a child or young person who has been detained under the terrorism provisions; and in subsection (3) above “arrest” includes such detention.

(11) In subsection (10) above “the terrorism provisions” has the meaning assigned to it by section 65 of the Police and Criminal Evidence Act 1984]

[ The reference in subsection (2) to a child or young person who is in police detention <sup>F15</sup>(12) includes a reference to a child or young person who has been detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019; and in subsection (3) “arrest” includes such detention.]]

### Textual Amendments

- F3** S. 34 substituted by [Children and Young Persons Act 1963 \(c. 37\), s. 25\(1\)](#)
- F4** S. 34(1) repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\), ss. 56, 101\(1\)\(2\), Sch. 12 para. 14, Sch. 13; S.I. 1992/333, art. 2\(2\), Sch. 2](#)
- F5** S. 34(2)–(11) substituted for s. 34(2) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\), s. 57](#)
- F6** Words in s. 34(7) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6, 149, 153, Sch. 4 para. 2\(2\), Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(u\)\(i\)](#)
- F7** Words in s. 34(7) inserted (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\), s. 108\(5\)\(6\), Sch. 13 para. 6\(2\)](#) ( with Sch. 14 para. 1(1)); S.I. 1991/828, [art. 3\(2\)](#).
- F8** S. 34(7A) inserted (14. 10. 1991) by [Children Act 1989 \(c. 41 , SIF 20\), s. 108\(5\)\(6\), Sch. 13 para. 6\(3\)](#) ( with Sch. 14 para. 1(1)); S.I. 1991/828, [art. 3\(2\)](#).
- F9** Words in s. 34(7A) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\), regs. 2\(1\), 4](#)
- F10** S. 34(7B) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6, 153, Sch. 4 para. 2\(3\)](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(i\)](#)
- F11** Words in s. 34(7B) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 1\(a\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F12** Words in s. 34(7B) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 1\(b\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F13** Word "(a)" in s. 34(8) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\), s. 108\(6\)\(7\), Sch. 15](#) (with Sch. 14 para. 27(4)); S.I. 1991/828, [art. 3\(2\)](#)
- F14** Words from "(b)" to the end in s. 34(8) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\), s. 108\(6\)\(7\), Sch. 15](#) (with Sch. 14 para. 27(4)); S.I. 1991/828, [art. 3\(2\)](#)
- F15** S. 34(12) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\), s. 27\(2\)\(d\), Sch. 4 para. 17; S.I. 2020/792, reg. 2\(i\)](#)

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

- C3** S. 34(2)-(7)(8)(9) applied (with modifications) (2.8.1993) by [S.I. 1993/1813, arts. 1, 6, Sch. 3 Pt. I paras. 1, 3\(3\)](#); s. 34(2)-(7)(8)(9) applied by the said [S.I. 1993/1813, art. 6, Sch. 3 paras. 3\(3\), 4](#) as incorporated (with modifications) (1.12.1997) by [S.I. 1994/1405, art. 6, Sch. 3 paras. 4\(b\), 5](#)
- C4** S. 34 applied (2.8.1993) by [S.I. 1993/1813, arts. 1, 6, Sch. 3 Pt. I para. 3\(4\)](#); s. 34 applied by the said [S.I. 1993/1813, art. 6, Sch. 3 para. 3\(4\)](#) as incorporated (with modifications) (1.12.1997) by [S.I. 1994/1405, art. 6, Sch. 3 para. 4\(d\)](#)
- C5** S. 34 applied (with modifications) by 1994 c. 33, s. 137D(2)(e) Sch. 7B Pt. 1 (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 116\(1\)\(3\), 183\(1\)\(5\)\(e\), Sch. 16](#)); [S.I. 2018/227, art. 2\(f\)](#)
- C6** S. 34(2)-(7) applied (4.11.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\), art. 5\(2\)\(b\)](#); commencement date as notified in London, Edinburgh and Belfast Gazettes
- C7** S. 34(8)(9) applied (4.11.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) Order 2003 \(S.I. 2003/2818\), art. 5\(2\)\(b\)](#); commencement date as notified in London, Edinburgh and Belfast Gazettes

#### **34A Attendance at court of parent or guardian.**

- (1) Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—
- (a) may in any case; and
  - (b) shall in the case of a child or a young person who is under the age of sixteen years,

require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case.

- (2) In relation to a child or young person for whom a local authority have parental responsibility and who—
- (a) is in their care; or
  - (b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which [<sup>F16</sup>are social service functions within the meaning of] the Local Authority Social Services Act 1970 [<sup>F17</sup>or the Social Services and Well-being (Wales) Act 2014],

the reference in subsection (1) above to a person who is a parent or guardian of his shall be construed as a reference to that authority or, where he is allowed to live with such a person, as including such a reference.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.

#### **Textual Amendments**

- F16** Words in s. 34A(2)(b) substituted (26.10.2000 for E. and 28.7.2001 for W.) by [2000 c. 22, ss. 107\(1\), 108\(4\), Sch. 5 para. 1; S.I. 2000/2849, art. 2\(f\)\(h\)](#)
- F17** Words in s. 34A(2)(b) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\), regs. 2\(1\), 5](#)

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35 ..... F18

**Textual Amendments**

**F18** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72, [Sch. 6](#)

*General Provisions as to Proceedings in Court*

36 **Prohibition against 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 [<sup>F19</sup>or while the court consents to his presence]; 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:

F20 . . .

**Textual Amendments**

**F19** Words in s. 36 inserted (27.9.1999) by [1999 c. 22](#), [ss. 73\(1\)](#), [108\(3\)\(b\)](#) (with [Sch. 14 para. 7\(2\)](#))  
**F20** Proviso to s. 36 repealed (27.9.1999) by [1999 c. 22](#), [ss. 106](#), [108\(3\)\(f\)](#), [Sch. 15 Pt. III](#) (with [Sch. 14 paras. 7\(2\)](#), [36\(9\)](#)); [S.I. 1999/2657](#), [art. 2\(d\)\(iii\)](#)

37 **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 [<sup>F21</sup>legal representatives], 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 bonâ 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 camerâ.

**Textual Amendments**

**F21** Words in s. 37(1) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), [ss. 208](#), [211](#), [Sch. 21 para. 16](#) (with [ss. 29](#), [192](#), [193](#)); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with [art. 9](#))

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### 38 Evidence of child of tender years.

<sup>F22</sup>(1) . . . . .

- (2) If any child whose evidence is received [<sup>F23</sup>unsworn in any proceedings for an offence by virtue of section 52 of the Criminal Justice Act 1991]wilfully gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he shall be liable on summary conviction to be dealt with as if he had been summarily convicted of an indictable offence punishable in the case of an adult with imprisonment.

#### Textual Amendments

- F22** S. 38(1) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 52(2), 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F23** Words in s. 38(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 100, **Sch. 11 para.1**; S.I. 1992/333, art. 2(2), **Sch. 2**

### 39 Power to prohibit publication of certain matter<sup>F24</sup>....

- (1) In relation to any proceedings[<sup>F25</sup>, other than criminal proceedings,] in any court . . .  
<sup>F26</sup>, the court may direct that [<sup>F27</sup>the following may not be included in a publication] —
- (a) <sup>F28</sup>...the name, address or school <sup>F29</sup>... of any child or young person concerned in the proceedings, either as being the person [<sup>F30</sup>by or against] or in respect of whom the proceedings are taken, or as being a witness therein:
- [<sup>F31</sup>(aa) any particulars calculated to lead to the identification of a child or young person so concerned in the proceedings;]
- (b) [<sup>F32</sup>a picture that is or includes] a picture of any child or young person so concerned in the proceedings <sup>F33</sup>...;
- except in so far (if at all) as may be permitted by the direction of the court.
- (2) Any person who [<sup>F34</sup>includes matter in a publication] in contravention of any such direction shall on summary conviction be liable in respect of each offence to a fine not exceeding [<sup>F35</sup>level 5 on the standard scale].

[<sup>F36</sup>(3) In this section—

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include a document prepared for use in particular legal proceedings;

“relevant programme” means a programme included in a programme service within the meaning of the Broadcasting Act 1990.]

#### Textual Amendments

- F24** Words in s. 39 heading omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), ss. 79(8), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F25** Words in s. 39(1) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), ss. 79(2)(a), 95(1) (with s. 79(12)(13)); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F26** Words repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**



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- F27** Words in s. 39(1) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(2)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F28** Words in s. 39(1)(a) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(3)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F29** Words in s. 39(1)(a) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(3)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F30** Words substituted by Children and Young Persons Act 1963 (c. 37), **s. 57(1)**
- F31** S. 39(1)(aa) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(4)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F32** Words in s. 39(1)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(5)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F33** Words in s. 39(1)(b) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(5)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F34** Words in s. 39(2) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(6)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)
- F35** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46
- F36** S. 39(3) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(7)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)

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

- C8** S. 39 extended by Children and Young Persons Act 1963 (c. 37), **s. 57(3)(4)** (as amended (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(10)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with **Sch. 2 para. 5**))
- C9** S. 39 extended with modifications by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 4(3)**
- C10** S. 39 applied (31.8.2009 for specified purposes, 1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by Violent Crime Reduction Act 2006 (c. 38), **ss. 11(8)(b)(10)**, 66(2); S.I. 2009/1840, art. 3(c); S.I. 2010/469, arts. 3(c), 4, Sch.; S.I. 2010/2541, arts. 3(b), 4, Sch.
- C11** S. 39 applied (1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by Violent Crime Reduction Act 2006 (c. 38), **ss. 7(9)(b)**, 66(2); S.I. 2010/469, arts. 2(b), 4, Sch.; S.I. 2010/2541, arts. 2(b), 4, Sch.
- C12** S. 39 applied (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 23(8)(b)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(a)
- C13** S. 39 applied (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 332(8)(b)**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

**[<sup>F37</sup>39A Prohibition on publication of certain matters: providers of information society services**

Schedule 1A makes special provision in connection with the operation of section 39 in relation to persons providing information society services.]

**Textual Amendments**

- F37** S. 39A inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 79(9)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 64 (with Sch. 2 para. 5)

*Special Procedure with regard to Offences specified in First Schedule*

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#### Textual Amendments

**F38** S. 40 repealed (E.W.) (14. 10. 1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(4)(6)(7), Sch. 12 para. 3, [Sch.15](#) (with [Sch. 14 para. 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#).

### 41 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.

### 42 Extension of power to take deposition of child or young person.

- (1) Where a justice of the peace is satisfied by the evidence of a duly qualified medical practitioner that the attendance before a court of any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Act is alleged to have been committed would involve serious danger to his life or health, the justice may take in writing the deposition of the child or young person on oath, and shall thereupon subscribe the deposition and add thereto a statement of his reason for taking it and of the day when and place where it was taken, and of the names of the persons (if any) present at the taking thereof.
- (2) The justice taking any such deposition shall transmit it with his statement—
  - (a) if the deposition relates to an offence for which any accused person is already [<sup>F39</sup>sent] for trial, to the proper officer of the court for the trial at which the accused person has been [<sup>F39</sup>sent; and
  - (b) in any other case, to the [<sup>F40</sup>proper officer] of the court before which proceedings are pending in respect of the offence.]

#### Textual Amendments

- F39** Word in s. 42(2)(a) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 33; [S.I. 2005/1267](#), art. 2(1)(2)(a), Sch. Pt. 1; [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F40** Words in s. 42(2)(b) substituted (1.4.2001) by [1999 c. 22, s. 90\(1\)](#), [Sch. 13 paras. 8, 9](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916](#), [art. 2\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))

### 43 Admission of deposition of child or young person in evidence.

Where, in any proceedings in respect of any of the offences mentioned in the First Schedule of this Act, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed would involve serious danger to his life or health, any deposition of the child or young person taken under the <sup>M1</sup>Indictable Offences Act 1848, or this Part of this Act, shall be admissible in evidence either for or against the accused person without further proof thereof if it purports to be signed by the justice by or before whom it purports to be taken:



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Provided that the deposition shall not be admissible in evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his [<sup>F41</sup>legal representative] had, or might have had if he had chosen to be present, an opportunity of cross-examining the child or young person making the deposition.

**Textual Amendments**

**F41** Words in s. 43 substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 17](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with art. 9)

**Marginal Citations**

**M1** 1848 c. 42.

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

**44 General considerations.**

(1) Every court in dealing with a child or young person who is brought before it, either as . . . <sup>F42</sup> 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) . . . . . <sup>F43</sup>

**Textual Amendments**

**F42** Words repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

**F43** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72, [Sch. 6](#)

*Youth Courts*

**[<sup>F44</sup>45 Constitution of Youth courts.**

- (1) Magistrates' courts—
- (a) constituted in accordance with this section or section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates' Courts)), and
  - (b) sitting for the purpose of—
    - (i) hearing any charge against a child or young person, or
    - (ii) exercising any other jurisdiction conferred on youth courts by or under this or any other Act,
- are to be known as youth courts.
- (2) A justice of the peace is not qualified to sit as a member of a youth court for the purpose of dealing with any proceedings unless he has an authorisation extending to the proceedings.

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- (3) He has an authorisation extending to the proceedings only if he has been authorised by the <sup>F45</sup>Lord Chief Justice, with the concurrence of the Lord Chancellor,] to sit as a member of a youth court to deal with—
- (a) proceedings of that description, or
  - (b) all proceedings dealt with by youth courts.
- (4) The <sup>F46</sup>Lord Chief Justice may, with the concurrence of the Lord Chancellor,] by rules make provision about—
- (a) the grant and revocation of authorisations,
  - (b) the appointment of chairmen of youth courts, and
  - (c) the composition of youth courts.
- (5) Rules under subsection (4) may confer powers on the Lord Chancellor <sup>F47</sup>or Lord Chief Justice] with respect to any of the matters specified in the rules.
- (6) Rules under subsection (4) may be made only after consultation with the Criminal Procedure Rule Committee.
- (7) Rules under subsection (4) are to be made by statutory instrument.
- (8) A statutory instrument containing rules under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.
- <sup>F48</sup>(9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3) or (4) or his powers under rules under subsection (4).]]

#### Textual Amendments

- F44** S. 45 substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), **ss. 50(1)**, 110; S.I. 2005/910, **art. 3(r)** (with savings (1.4.2005) by [The Courts Act 2003 \(Transitional Provisions, Savings and Consequential Provisions\) Order 2005 \(S.I. 2005/911\)](#), **art. 9**)
- F45** Words in s. 45(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, **Sch. 4 para. 20(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F46** Words in s. 45(4) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, **Sch. 4 para. 20(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F47** Words in s. 45(5) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, **Sch. 4 para. 20(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F48** S. 45(9) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, **Sch. 4 para. 20(5)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)

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

- C14** S. 45 modified (26.1.2004) by [Courts Act 2003 \(c. 39\)](#), **ss. 66(3)**, 110; S.I. 2003/3345, **art. 2(a)(iv)**

#### 46 Assignment of certain matters to <sup>F49</sup>youth courts].

- (1) Subject as hereinafter provided, no charge against a child or young person, and no application whereof the hearing is by rules made under this section assigned to <sup>F49</sup>youth courts] ,shall be heard by a <sup>F50</sup>magistrates' court] which is not a <sup>F49</sup>youth court]:

Provided that—

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- (a) a charge made jointly against a child or young person and a person who has attained [<sup>F51</sup>the age of eighteen] years shall be heard by a [<sup>F50</sup>magistrates' court] other than a [<sup>F49</sup>youth court]; and
- (b) where a child or young person is charged with an offence, the charge may be heard by a [<sup>F50</sup>magistrates' court] which is not a [<sup>F49</sup>youth court] if a person who has attained [<sup>F51</sup>the age of eighteen] years is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence; and
- (c) where, in the course of any proceedings before any [<sup>F50</sup>magistrates' court] other than a [<sup>F49</sup>youth court], it appears that the person to whom the proceedings relate is a child or young person, nothing in this subsection shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.

[<sup>F52</sup>(1A) If a notification that the accused desires to plead guilty without appearing before the court is received by the [<sup>F53</sup>designated officer for] a court in pursuance of [<sup>F54</sup>section 12 of the <sup>M2</sup>Magistrates' Courts Act 1980] and the court has no reason to believe that the accused is a child or young person, then, if he is a child or young person he shall be deemed to have attained [<sup>F51</sup> the age of eighteen] for the purposes of subsection (1) of this section in its application to the proceedings in question.]

(2) No direction, whether contained in this or any other Act, that a charge shall be brought before a [<sup>F49</sup>youth court] shall be construed as restricting the powers of any justice or justices to entertain an application for bail or for a remand, and to hear such evidence as may be necessary for that purpose.

(3) ..... <sup>F55</sup>

#### Textual Amendments

- F49** Words in s. 46 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F50** Words in s. 46(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 74(2)**; S.I. 2005/910, art. 3(bb)
- F51** Words in s. 46(1)(1A) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), Sch. 8 para. 1(2), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F52** S. 46(1A) inserted by Children and Young Persons Act 1969 (c. 54), **Sch. 5 para. 4**
- F53** Words in s. 46(1A) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 74(3)**; S.I. 2005/910, art. 3(bb)
- F54** Words substituted by Magistrates' Courts Act 1980 (c. 43), ss. 154(2), 155(7), **Sch. 7 para 6**
- F55** S. 46(3) repealed by Justices of the Peace Act 1949 (c. 101), **Sch. 7, Pt. II**

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

- C15** S. 46(1) excluded by Children and Young Persons Act 1963 (c. 37), **s. 18**, Criminal Law Act 1977 (c. 45), **s. 34(1)** and Magistrates' Courts Act 1980 (c. 43), **ss. 29(1)**, 155(7)

#### Marginal Citations

- M2** 1980 c. 43.

#### 47 Procedure in [<sup>F56</sup>youth courts].

(1) [<sup>F56</sup>Youth courts] shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on them by or under this or any other Act.

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- (2)<sup>F57</sup> . . . No person shall be present at any sitting of a [<sup>F56</sup>youth court] except—
- (a) members and officers of the court;
  - (b) parties to the case before the court, their [<sup>F58</sup>legal representatives], and witnesses and other persons directly concerned in that case;
  - (c) bonâ fide representatives of newspapers or news agencies;
  - (d) such other persons as the court may specially authorise to be present:

.....<sup>F59</sup>

- (3) .....<sup>F60</sup>

**Textual Amendments**

- F56** Words in s. 47 substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53, SIF 39:1)*, s. 100, **Sch. 11 para. 40(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F57** Words in s. 47(2) repealed (30.9.1998) by 1998 c. 37, ss. 47(7), 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(k)(3)(g)**.
- F58** Words in s. 47(2)(b) substituted (1.1.2010) by *Legal Services Act 2007 (c. 29)*, ss. 208, 211, **Sch. 21 para. 18** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F59** S. 47(2) proviso repealed by *Justices of Peace Act 1949 (c. 101)*, **Sch. 7 Pt. III**
- F60** S. 47(3) repealed by *Justices of the Peace Act 1949 (c. 101)*, **Sch. 7, Pt. II**

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

- C16** S. 47(2) restricted by *Adoption Act 1958 (7 & 8 Eliz. 2 c. 5)*, **s. 47**; restricted by *Adoption Act 1976 (c. 36)*, **s. 37(4)**
- C17** S. 47(2) modified (31.8.2009 for specified purposes, 1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by *Violent Crime Reduction Act 2006 (c. 38)*, **ss. 11(7)**, 66(2); S.I. 2009/1840, art. 3(c); S.I. 2010/469, arts. 3(c), 4, Sch.; S.I. 2010/2541, arts. 3(c), 4, Sch.

**48 Miscellaneous provisions as to powers of [<sup>F61</sup>youth courts].**

(1) A [<sup>F61</sup>youth court] sitting for the purpose of hearing a charge against, . . . <sup>F62</sup>, 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 . . . <sup>F62</sup> notwithstanding that it is discovered that the person in question is not a child or young person.

<sup>F63</sup>(2) The attainment of [<sup>F64</sup>the age of eighteen] years by . . . <sup>F65</sup> a person in whose case an order for conditional discharge has been made, shall not deprive a [<sup>F61</sup>youth court] of jurisdiction to enforce his attendance and deal with him in respect of . . . <sup>F65</sup> the commission of a further offence . . . <sup>F65</sup>.

(3) When a [<sup>F61</sup>youth court] has remanded a child or young person for information to be obtained with respect to him, any [<sup>F61</sup>youth court] acting [<sup>F66</sup>in the same local justice area]—

- (a) may in his absence extend the period for which he is remanded, so, however, that he appears before a court or a justice of the peace at least once in every twenty-one days;
- (b) when the required information has been obtained, may deal with him finally;

.....<sup>F67</sup>

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(4) . . . . . <sup>F68</sup> a [<sup>F61</sup>youth court] may sit on any day for the purpose of hearing and determining a charge against a child or young person in respect of an indictable offence.

<sup>F69</sup>(5) . . . . .

(6) . . . . . <sup>F70</sup>

#### Textual Amendments

- F61** Words in s. 48 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 40(2)(a)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F62** Words repealed by Children and Young Persons Act 1963 (c. 37), s. 64, **Sch. 5**
- F63** S. 48(2) substituted by Criminal Justice Act 1948 (c. 58), **Sch. 9**
- F64** Words in s. 48(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68, 101(1), **Sch. 8 para. 1(2)**, **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F65** Words repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**
- F66** Words in s. 48(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 75**; S.I. 2005/910, **art. 3(bb)**
- F67** Words repealed by Criminal Justice Act 1948 (c. 58), **Sch. 10 Pt. I**
- F68** Words repealed by Magistrates' Courts Act 1952 (c. 55), s. 132, **Sch. 6**
- F69** S. 48(5) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with **Sch. 14 paras. 7(2)**, **36(9)**); S.I. 1999/2657, **art. 2(d)(iii)**
- F70** S. 48(6) repealed by Justices of the Peace Act 1949 (c. 101), **Sch. 7**, Pt. III

#### [<sup>F71</sup>49] **Restrictions on reports of proceedings in which children or young persons are concerned.**

[<sup>F72</sup>(1) No matter relating to any child or young person concerned in proceedings to which this section applies shall while he is under the age of 18 be included in any publication if it is likely to lead members of the public to identify him as someone concerned in the proceedings.]

(2) The proceedings to which this section applies are—

- (a) proceedings in a youth court;
- (b) proceedings on appeal from a youth court (including proceedings by way of case stated);

[<sup>F73</sup>(c) proceedings in a magistrates' court under [<sup>F74</sup>Schedule 7 to the Sentencing Code] (proceedings for breach, revocation or amendment of youth rehabilitation orders);

(d) proceedings on appeal from a magistrates' court arising out of any proceedings mentioned in paragraph (c) (including proceedings by way of case stated).]

[<sup>F75</sup>(3) In this section “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings.

(3A) The matters relating to a person in relation to which the restrictions imposed by subsection (1) above apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—

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- (a) his name,
  - (b) his address,
  - (c) the identity of any school or other educational establishment attended by him,
  - (d) the identity of any place of work, and
  - (e) any still or moving picture of him.]
- (4) For the purposes of this section a child or young person is “concerned” in any proceedings [<sup>F76</sup>if he is—
- (a) a person against or in respect of whom the proceedings are taken, or
  - (b) a person called, or proposed to be called, to give evidence in the proceedings.]

[ If a court is satisfied that it is in the public interest to do so, it may, in relation to a

<sup>F77</sup>(4A) child or young person who has been convicted of an offence, by order dispense to any specified extent with the [<sup>F78</sup>restrictions imposed by subsection (1) above] in relation to any proceedings before it to which this section applies by virtue of subsection (2)

- (a) or (b) above, being proceedings relating to—
- (a) the prosecution or conviction of the offender for the offence;
  - (b) the manner in which he, or his parent or guardian, should be dealt with in respect of the offence;
  - (c) the enforcement, amendment, variation, revocation or discharge of any order made in respect of the offence;
  - (d) where an attendance centre order is made in respect of the offence, the enforcement of any rules made under [<sup>F79</sup>section 394(1)(d) or (e) of the Sentencing Code]; or
- [ where a detention and training order is made, the enforcement of any
- <sup>F80</sup>(e) requirements imposed under [<sup>F81</sup>section 242(4)(b) of the Sentencing Code].]

- (4B) A court shall not exercise its power under subsection (4A) above without—
- (a) affording the parties to the proceedings an opportunity to make representations; and
  - (b) taking into account any representations which are duly made.]

- (5) Subject to subsection (7) below, a court may, in relation to proceedings before it to which this section applies, by order dispense to any specified extent with the requirements of this section in relation to a child or young person who is concerned in the proceedings if it is satisfied—
- (a) that it is appropriate to do so for the purpose of avoiding injustice to the child or young person; or
  - (b) that, as respects a child or young person to whom this paragraph applies who is unlawfully at large, it is necessary to dispense with those requirements for the purpose of apprehending him and bringing him before a court or returning him to the place in which he was in custody.

- (6) Paragraph (b) of subsection (5) above applies to any child or young person who is charged with or has been convicted of—

- (a) a violent offence,
  - (b) a sexual offence, <sup>F82</sup>...
- [ a terrorism offence, <sup>F84</sup>...]

<sup>F83</sup>(ba)

- [ an offence under section 18 of, or listed in section 33(3)(a) of, the National
- <sup>F85</sup>(bb) Security Act 2023, or]



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- (c) an offence punishable in the case of a person aged 21 or over with imprisonment for fourteen years or more.
- (7) The court shall not exercise its power under subsection (5)(b) above—
  - (a) except in pursuance of an application by or on behalf of the Director of Public Prosecutions; and
  - (b) unless notice of the application has been given by the Director of Public Prosecutions to any legal representative of the child or young person.
- (8) The court’s power under subsection [F86(4A) or] (5) above may be exercised by a single justice.
- [F87(9) If a publication includes any matter in contravention of subsection (1) above, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—
  - (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
  - (b) where the publication is a relevant programme—
    - (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and
    - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
  - (c) in the case of any other publication, any person publishing it.
- (9A) Where a person is charged with an offence under subsection (9) above it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question.
- (9B) If an offence under subsection (9) above committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of, or
  - (b) to be attributable to any neglect on the part of,an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (9C) In subsection (9B) above “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (9D) If the affairs of a body corporate are managed by its members, “director” in subsection (9C) above means a member of that body.
- (9E) Where an offence under subsection (9) above is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.]
- (10) In any proceedings under [F88[F89] Schedule 7 to the Sentencing Code] (proceedings for breach, revocation or amendment of youth rehabilitation orders)] before a magistrates’ court other than a youth court or on appeal from such a court it shall be the duty of the magistrates’ court or the appellate court to announce in the course of the proceedings that this section applies to the proceedings; and if the court fails to do so this section shall not apply to the proceedings.
- (11) In this section—

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F90

[<sup>F91</sup>“picture” includes a likeness however produced;

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;]

“sexual offence” [<sup>F92</sup>means an offence listed in Part 2 of [<sup>F93</sup>Schedule 18 to the Sentencing Code]];

“specified” means specified in an order under this section;

[<sup>F94</sup>“terrorism offence” means an offence listed in Part 3 of [<sup>F95</sup>Schedule 18 to the Sentencing Code];]

“violent offence” [<sup>F96</sup>means an offence listed in Part 1 of [<sup>F97</sup>Schedule 18 to the Sentencing Code]];

and a person who, having been granted bail, is liable to arrest (whether with or without a warrant) shall be treated as unlawfully at large.]

#### Extent Information

E1 For extent and application see s. 49(12)-(14)

#### Textual Amendments

F71 S. 49 substituted (3.2.1995) by 1994 c. 33, s. 49; S.I. 1995/127, art. 2(1), **Sch. 1**

F72 S. 49(1) substituted (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(2)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)

F73 S. 49(2)(c)(d) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 3(2)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(ii)**

F74 Words in s. 49(2)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(2)** (with Sch. 27); S.I. 2020/1236, reg. 2

F75 S. 49(3)(3A) substituted for s. 49(3) (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(3)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)

F76 Words in s. 49(4) substituted (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(4)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)

F77 S. 49(4A)(4B) inserted (1.10.1997) by 1997 c. 43, s. 45(1)(2); S.I. 1997/2200, **art. 2(1)(i)**

F78 Words in s. 49(4A) substituted (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(5)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)

F79 Words in s. 49(4A)(d) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2

F80 S. 49(4A)(e) substituted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 1**; S.I. 1999/3426, **art. 3(b)** (with art. 4)

F81 Words in s. 49(4A)(e) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2

F82 Word in s. 49(6)(b) omitted (12.4.2019) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), **Sch. 4 para. 1(a)(i)** (with s. 25(3)(4))

F83 S. 49(6)(ba) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), **Sch. 4 para. 1(a)(ii)** (with s. 25(3)(4))

F84 Word in s. 49(6)(ba) omitted (20.12.2023) by virtue of The National Security Act 2023 (Consequential Amendments of Primary Legislation) Regulations 2023 (S.I. 2023/1386), reg. 1(2), **Sch. para. 1(a)**

F85 S. 49(6)(bb) inserted (20.12.2023) by The National Security Act 2023 (Consequential Amendments of Primary Legislation) Regulations 2023 (S.I. 2023/1386), reg. 1(2), **Sch. para. 1(b)**

F86 Words in s. 49(8) inserted (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(6)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)

F87 S. 49(9)-(9E) substituted for s. 49(9) (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(7)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)

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- F88** Words in s. 49(10) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 3(4)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(ii)**
- F89** Words in s. 49(10) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F90** Words in s. 49(11) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 19, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(i)(i)** (with art. 9)
- F91** Words in s. 49(11) substituted (13.4.2015) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 3(8)** (with Sch. 2 para. 3(10), Sch. 7); S.I. 2015/818, art. 2(g)
- F92** S. 49(11): words in definition of "sexual offence" substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 para. 2(3)(a)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 23, 42(3) (subject to art. 2(2) and Sch. 2 (as amended by S.I. 2005/2122, art. 2))
- F93** Words in s. 49(11) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(5)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F94** Words in s. 49(11) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), **Sch. 4 para. 1(b)** (with s. 25(3)(4))
- F95** Words in s. 49(11) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(5)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F96** Words in s. 49(11) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 para. 2(3)(b)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 23, 42(3) (subject to art. 2(2) and Sch. 2 (as amended by S.I. 2005/2122, art. 2))
- F97** Words in s. 49(11) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 2(5)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2

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

- C18** S. 49 excluded (31.8.2009 for specified purposes, 1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by Violent Crime Reduction Act 2006 (c. 38), **ss. 11(8)(a)**, 66(2); S.I. 2009/1840, art. 3(c); S.I. 2010/469, arts. 3(c), 4, Sch.; S.I. 2010/2541, arts. 3(c), 4, Sch.
- C19** S. 49 excluded (1.4.2010 for specified purposes, 1.11.2010 for specified purposes) by Violent Crime Reduction Act 2006 (c. 38), **ss. 7(9)(a)**, 66(2); S.I. 2010/469, arts. 2(b), 4, Sch.; S.I. 2010/2541, arts. 2(b), 4, Sch.
- C20** S. 49 excluded (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 30(5)(a)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(a)
- C21** S. 49 excluded (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 23(8)(a)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(a)
- C22** S. 49 excluded (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 17, 185(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(a)
- C23** S. 49 excluded (20.1.2004 for certain purposes and otherwise 31.3.2004) by 1998 c. 37, s. 1C(9C) (as inserted by Anti-Social Behaviour Act 2003 (c. 38), **ss. 86(3)**, 93); S.I. 2003/3300, **art. 2(f)(ii)**; S.I. 2004/690, **art. 2(b)(iii)**
- C24** S. 49 excluded (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 332(8)(a)**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2
- C25** S. 49 excluded (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 339(5)(a)**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

### Juvenile Offenders

#### 50 Age of criminal responsibility.

It shall be conclusively presumed that no child under the age of [F98ten] years can be guilty of any offence.

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**Textual Amendments**

**F98** Word substituted by [Children and Young Persons Act 1963 \(c. 37\), s. 16\(1\)](#)

**51** ..... **F99**

**Textual Amendments**

**F99** Ss. 1(4), 51 repealed by [Criminal Law Act 1967 \(c. 58\), s. 12, Sch. 3 Pt. III](#)

**52** ..... **F100**

**Textual Amendments**

**F100** Ss. 33, 52 repealed by [Criminal Justice Act 1948 \(c. 58\), Sch. 10 Pt. I](#)

<sup>F101</sup>**53** .....

**Textual Amendments**

**F101** S. 53 repealed (25.8.2000) by [2000 c. 6, ss. 165\(4\), 168\(1\), Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**54** ..... **F102**

**Textual Amendments**

**F102** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by [Children and Young Persons Act 1969 \(c. 54\), s. 72, Sch. 6](#)

<sup>F103</sup>**55** .....

**Textual Amendments**

**F103** S. 55 repealed (25.8.2000) by [2000 c. 6, ss. 165\(4\), 168\(1\), Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#)) and subject to an amendment (26.10.2000 for E. and 28.7.2001 for W.) by [2000 c. 22, ss. 107\(1\), 108\(4\), Sch. 5 para. 2; S.I. 2000/2849, art. 2\(f\)\(h\)](#)

<sup>F104</sup>**56** .....

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**Textual Amendments**

**F104** S. 56 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

57 ..... **F105**

**Textual Amendments**

**F105** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by **Children and Young Persons Act 1969 (c. 54)**, s. 72, **Sch. 6**

**58 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
- [<sup>F106</sup>(aa)** a child or young person sentenced to be detained under section 250 of the Sentencing Code with respect to whom the Secretary of State is authorised to give directions under section 260 of that Code; or]
- (b) a child or young person [<sup>F107</sup>sentenced to be detained under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 with respect to whom he is authorised to give directions under section 92 of that 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 [<sup>F108</sup>for his detention in that approved school or in such other approved school as the Secretary of State may from time to time determine] 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 <sup>F109</sup>... sentenced to detention under the said [<sup>F110</sup>section 250 or][<sup>F111</sup>section 91], than the date on which his detention would have expired;
- (b) in the case of a young person who has been sentenced to imprisonment and pardoned as aforesaid, than three years from the date as from which his sentence began to run;
- [<sup>F112</sup>(c)** in the case of a person who was undergoing detention in a Borstal institution, than the end of the period for which he would have been liable to be detained therein.]

**Textual Amendments**

**F106** S. 58(aa) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 3(2)** (with Sch. 27); **S.I. 2020/1236, reg. 2**

**F107** Words in s. 58(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 3(2)**

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- F108** Words substituted by [Children and Young Persons Act 1963 \(c. 37\), Sch. 3 para. 13](#)
- F109** Words in s. 58 proviso (a) repealed by [Criminal Justice Act 1948 \(c. 58\), Sch. 10 Pt. I](#)
- F110** Words in s. 58 proviso (a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 3\(3\)](#) (with [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F111** Words in s. 58 proviso (a) substituted (25.8.2000) by [2000 c. 6, ss. 165\(1\), 168\(1\), Sch. 9 para. 3\(3\)](#)
- F112** S. 58 proviso (c) added by [Criminal Justice Act 1948 \(c. 58\), Sch. 9](#)

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

- C26** S. 58 extended by [Children and Young Persons Act 1963 \(c. 37\), s. 11\(2\)\(4\)](#)

**59 Miscellaneous provisions as to summary proceedings against juvenile offenders.**

(1) The words “conviction” and “sentence” shall cease to be used in relation to [<sup>F113</sup>children and] young persons dealt with summarily and any reference in any enactment [<sup>F114</sup>whether passed before or after the commencement of this Act] to a person convicted, a conviction or a sentence shall, in the case of a [<sup>F113</sup>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:

..... **F115**

(2) ..... **F116**

**Textual Amendments**

- F113** Words repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\), Sch. 6](#)
- F114** Words inserted by [Criminal Justice Act 1948 \(c. 58\), Sch. 9](#)
- F115** S. 59(1) proviso repealed by [Criminal Justice Act 1948 \(c. 58\), Sch. 10 Pt. I](#)
- F116** S. 59(2) repealed by [Costs in Criminal Cases Act 1952 \(c. 48\), Sch.](#)

**60** ..... **F117**

**Textual Amendments**

- F117** S. 60 and Sch. 3 repealed by [Magistrates' Courts Act 1952 \(c. 55\), s. 132, Sch. 6](#)

**61** ..... **F118**

**Textual Amendments**

- F118** Ss. 14(3), 22, 24(3)(5), 29(1)(2), 61 repealed by [Children and Young Persons Act 1963 \(c. 37\), s. 64, Sch. 5](#)

**62—76** ..... **F119**



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**Changes to legislation:** *Children and Young Persons Act 1933, Part III is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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#### **Textual Amendments**

**F119** Ss. 26(6), 29(3), 32, 35, 44(2), 54, 55(2), 57, 62–76, 77(1)(3), 78, 79(4), 81(2), 82–85, 90, 91, 94, 107(2), 108(2)(3), Sch. 4 paras. 4–13 repealed by [Children and Young Persons Act 1969 \(c. 54\), s. 72, Sch. 6](#)

**Changes to legislation:**

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

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

- s. 12D(1A)-(1F) inserted by [2017 anaw 2 s. 51](#)
- s. 39(2A) inserted by [2010 c. 26 Sch. 3 para. 3](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 49(12)-(14) inserted by [1999 c. 23 Sch. 2 para. 3\(9\)](#)