



THE CHILDREN AND YOUNG PERSONS ACT 2001

**THE CHILDREN AND YOUNG PERSONS (TRANSFER AND RECOVERY)
ORDER 2006**

Approved by Tynwald.....21st March 2006

Coming into operation.....6th April 2006

In exercise of the powers conferred on the Council of Ministers by sections 38(3) and 103 of, and paragraph 6(1)(b) of Schedule 11 to, the Children and Young Persons Act 2001¹, and of all other enabling powers, the following Order is hereby made:—

1. Citation, commencement and interpretation

(1) This Order may be cited as the Children and Young Persons (Transfer and Recovery) Order 2006 and, subject to section 104(2) of the Act, shall come into operation on the 6th April 2006.

(2) In this Order —

"the Act" means the Children and Young Persons Act 2001;

"the Children Act" means the Children Act 1989 (an Act of Parliament)²;

"the Children Order" means the Children (Northern Ireland) Order 1995³;

"the Department" means the Department of Health and Social Security;

"the relevant authority", in relation to a child, means the authority in England and Wales or Northern Ireland in whose care he is or into whose care he is to be received, as the case may require.

2. Transfer of care orders from England and Wales

(1) A care order under section 31 of the Children Act (being an order made by a court in England and Wales which appears to the Council of Ministers to correspond in its effect to an order which may be made under the Act) shall in the circumstances prescribed in paragraph (2) have effect for all the purposes of the Act in the Island as if it were a care

¹ 2001 c.20

² 1989 c.41

³ SI 1995/755

order under section 31 of the Act placing the child in question in the care of the Department.

- (2) The circumstances prescribed are that —
 - (a) the court has given its approval under paragraph 19(1) of Schedule 2 to the Children Act to the relevant authority arranging or assisting in arranging for the child to live in the Island; and
 - (b) the Department has agreed in writing to receive the child into its care.

3. Transfer of care orders from Northern Ireland

(1) A care order under Article 50 of the Children Order (being an order made by a court in Northern Ireland which appears to the Council of Ministers to correspond in its effect to an order which may be made under the Act) shall in the circumstances prescribed in paragraph (2) have effect for all the purposes of the Act in the Island as if it were a care order under section 31 of the Act placing the child in question in the care of the Department.

- (2) The circumstances prescribed are that —
 - (a) the court has given its approval under Article 33(1) of the Children Order to the relevant authority arranging or assisting in arranging for the child to live in the Island; and
 - (b) the Department has agreed in writing to receive the child into its care.

4. Transfer of care orders to England and Wales or Northern Ireland

(1) The conditions prescribed for the purposes of section 38(3) of the Act (child in care taken to live outside the Island) in the case of a child who is taken to live in England and Wales or Northern Ireland are that —

- (a) the court has given its approval under paragraph 6(2) of Schedule 2 to the Act to the Department arranging or assisting in arranging for the child to live in England and Wales or Northern Ireland, as the case may be;
- (b) the relevant authority has notified the court referred to in paragraph (a) in writing that it agrees to receive the child into its care; and
- (c) the Department has notified the court referred to in paragraph (a) that it agrees to the relevant authority receiving the child into care.

(2) The conditions prescribed for the purposes of paragraph 6 of Schedule 11 to the Act (child in care taken to live outside the Island: transitional provision) in the case of a child who was taken to live in England and Wales or Northern Ireland in the period mentioned in sub-paragraph (2)(a) or (b), as the case may be, of that paragraph are that —

- (a) the relevant order (as defined in sub-paragraph (3) of that paragraph) was made otherwise than on a finding of guilt,
- (b) either —
 - (i) a court in the Island gave leave under section 56(2) of the Children and Young Persons Act 1966⁴ for the Department to make

⁴ XX p.89

- arrangements for the child to be received into the care of the relevant authority, or
- (ii) the court directed under section 56(5) of that Act that the said section 56(2) should not apply in relation to the order in question, and
 - (c) the relevant authority agreed in writing to receive the child into its care.

5. Transfer of recovery orders from England and Wales or Northern Ireland

For all the purposes of the Act —

- (a) a recovery order under section 50 of the Children Act (being an order made by a court in England and Wales which appears to the Council of Ministers to correspond in its effect to an order which may be made under the Act), and
- (b) a recovery order under Article 69 of the Children Order (being an order made by a court in Northern Ireland which appears to the Council of Ministers to correspond in its effect to an order which may be made under the Act),

shall have effect as if it were a recovery order under section 49 of the Act.

MADE

2nd March

2006

Mary Williams

Chief Secretary

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order provides for care orders and recovery orders made by a court in England and Wales or Northern Ireland to have effect in certain circumstances in the Isle of Man as if they were equivalent orders made by a court in the Island, and also prescribes the circumstances in which a care order made in the Island shall cease, or shall be deemed to have ceased, to have effect where the child is or has been taken to live in England and Wales or Northern Ireland.

