



# Family Law Act 1996

## 1996 CHAPTER 27

### PART II

#### DIVORCE AND SEPARATION

##### *Welfare of children*

#### 11 Welfare of children

- (1) In any proceedings for a divorce order or a separation order, the court shall consider—
  - (a) whether there are any children of the family to whom this section applies; and
  - (b) where there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under the Children Act 1989 with respect to any of them.
- (2) Where, in any case to which this section applies, it appears to the court that—
  - (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the Children Act 1989 with respect to any such child,
  - (b) it is not in a position to exercise the power, or (as the case may be) those powers, without giving further consideration to the case, and
  - (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section,it may direct that the divorce order or separation order is not to be made until the court orders otherwise.
- (3) In deciding whether the circumstances are as mentioned in subsection (2)(a), the court shall treat the welfare of the child as paramount.
- (4) In making that decision, the court shall also have particular regard, on the evidence before it, to—
  - (a) the wishes and feelings of the child considered in the light of his age and understanding and the circumstances in which those wishes were expressed;

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*Status: This is the original version (as it was originally enacted).*

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- (b) the conduct of the parties in relation to the upbringing of the child;
  - (c) the general principle that, in the absence of evidence to the contrary, the welfare of the child will be best served by—
    - (i) his having regular contact with those who have parental responsibility for him and with other members of his family; and
    - (ii) the maintenance of as good a continuing relationship with his parents as is possible; and
  - (d) any risk to the child attributable to—
    - (i) where the person with whom the child will reside is living or proposes to live;
    - (ii) any person with whom that person is living or with whom he proposes to live; or
    - (iii) any other arrangements for his care and upbringing.
- (5) This section applies to—
- (a) any child of the family who has not reached the age of sixteen at the date when the court considers the case in accordance with the requirements of this section; and
  - (b) any child of the family who has reached that age at that date and in relation to whom the court directs that this section shall apply.