

*Status: Point in time view as at 06/04/2010.*

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## SCHEDULES

### SCHEDULE 3

Section 27(1).

### CUSTODY ORDERS

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

- C1** Sch. 3 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.  
Sch. 3 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

### PART I

#### ENGLAND AND WALES

- <sup>F1</sup>[1 The following are the orders referred to in section 27(1) of this Act—
- (a) a care order under the Children Act 1989 (as defined by section 31(11) of that Act, read with section 105(1) and Schedule 14);
  - (b) a residence order (as defined by section 8 of the Act of 1989); <sup>F2</sup>...
  - [ a special guardianship order (within the meaning of the Act of 1989); and]
- <sup>F3</sup>(bb)
- (c) any order made by a court in England and Wales under any of the following enactments—
    - (i) section 9(1), 10(1)(a) or 11(a) of the Guardianship of Minors Act 1971;
    - (ii) section 42(1) or (2) or 43(1) of the Matrimonial Causes Act 1973;
    - (iii) section 2(2)(b), 4(b) or (5) of the Guardianship Act 1973 as applied by section 34(5) of the Children Act 1975;
    - (iv) section 8(2)(a), 10(1) or 19(1)(ii) of the Domestic Proceedings and Magistrates Courts Act 1978;
- <sup>F4</sup>(v)] .....

#### Textual Amendments

- F1** Sch. 3 Pt. I para. 1 substituted (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 57(3), Sch. 14 para. 1(1); S.I. 1991/828, art. 3(2)
- F2** Word in Sch. 3 para. 1(b) omitted (30.12.2005) by virtue of Adoption and Children Act 2002 (c. 38), s. 148(1), Sch. 3 para. 45, 5 (with Sch. 4 paras. 2, Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F3** Sch. 3 para. 1(bb) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), Sch. 3 para. 45 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F4** Sch. 3 para. 1(c)(v) omitted (30.12.2005) by virtue of Adoption and Children Act 2002 (c. 38), s. 148(1), Sch. 3 para. 45, 5 (with Sch. 4 paras. 2, Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

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- 2 An order made by the High Court in the exercise of its jurisdiction relating to wardship so far as it gives the care and control of a child to any person.

<sup>F53</sup> .....

#### Textual Amendments

**F5** Sch. 3 Pt. I para. 3 repealed (4.11.1996) by S.I. 1995/756, art. 15, Sch.; S.R. 1996/297, art. 3

- 4 An authorisation given by the Secretary of State under section 26(2) of the Children and Young Persons Act 1969 (except where the relevant order, within the meaning of that section, was made by virtue of the court which made it being satisfied that the child was guilty of an offence).

## PART II

### SCOTLAND

- 5 An order made by a court of civil jurisdiction in Scotland under any enactment or rule of law with respect to the [<sup>F6</sup>residence, custody, care or control of a child or contact with, or] access to a child, excluding—
- (i) an order placing a child under the supervision of a local authority;
  - <sup>F7</sup>(ii) an adoption order under section 12(1) of the <sup>M1</sup>Adoption (Scotland) Act 1978;
  - <sup>F8</sup>[<sup>F9</sup>(iia) an order freeing a child for adoption made under section 18 of the <sup>M2</sup>Adoption (Scotland) Act 1978]
  - (iii) an order relating to the [<sup>F10</sup>guardianship] of a child;
  - (iv) an order made under section [<sup>F11</sup>86 of the Children (Scotland) Act 1995];
  - [<sup>F12</sup>(v) an order made, or warrant or authorisation granted, under or by virtue of Chapter 2 or 3 of Part II of the Children (Scotland) Act 1995 to remove the child to a place of safety or to secure accommodation, to keep him at such a place or in such accommodation, or to prevent his removal from a place where he is being accommodated (or an order varying or discharging any order, warrant or authorisation so made or granted);]
  - (vi) an order made in proceedings under this Act.
  - [<sup>F13</sup>(vii) an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007 (asp 4);
  - (viii) a permanence order (as defined in subsection (2) of section 80 of that Act) which includes provision such as is mentioned in paragraph (c) of that subsection.]

#### Textual Amendments

**F6** Words in Sch. 3 Pt. II para. 5 substituted (1.11.1996 subject to arts. 4-7 of the commencing S.I.) by 1995 c. 36, s. 104(4), Sch. 4 para. 37(6)(a)(i) (with s. 103(1)); S.I. 1996/2203, art. 3(3), Sch.

**F7** Sch. 3 para. 5(ii) repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), Sch. 3; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

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- F8** Sch. 3 para. 5(iiia) repealed (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), [Sch. 3](#); S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F9** Sch. 3, Pt. I para. 5(iiia) inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), s. 68(1), [Sch. 1 para. 31](#)
- F10** Words in Sch. 3 Pt. II para. 5(iii) substituted (1.11.1996 subject to arts. 4-7 of the commencing S.I.) by 1995 c. 36, s. 105(4), [Sch. 4 para. 37\(6\)\(a\)\(ii\)](#) (with s. 103(1)); S.I. 1996/2203, art. 3(3), [Sch.](#)
- F11** Words in Sch. 3 Pt. II para. 5(iv) substituted (1.4.1997) by 1995 c. 36, s. 105(4), [Sch. 4 para. 37\(6\)\(a\)\(iii\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F12** Sch. 3 Pt. II para. 5(v) substituted (1.4.1997) by 1995 c. 36, s. 105(4), [Sch. 4 para. 37\(6\)\(a\)\(iv\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F13** Sch. 3 para. 5(vii)(viii) inserted (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), s. 121(2), [Sch. 2 para. 4](#); S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

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

- C2** Sch. 3 Pt. II para. 5(ii) modified (1.11.1994) by S.I. 1994/2804, reg. 3, [Sch. 2 para. 4](#)
- C3** Sch. 3 para. 5(vii) modified (6.4.2010) by [The Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), regs. 1(1), 5, [Sch. 4](#)

#### Marginal Citations

- M1** 1978 c. 28.
- M2** 1978 c.28(49:11).

[<sup>F146</sup> A supervision requirement made by a children’s hearing under section 70 of the Children (Scotland) Act 1995 (whether or not continued under section 73 of that Act) or made by the sheriff under section 51(5)(c)(iii) of that Act and any order made by a court in England and Wales or in Northern Ireland if it is an order which, by virtue of section 33(1) of that Act, has effect as if it were such a supervision requirement.]

#### Textual Amendments

- F14** Sch. 3 Pt. II para. 6 substituted (1.4.1997) by 1995 c. 36, s. 105(4), [Sch. 4 para. 36\(6\)\(b\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)

<sup>F157</sup> .....

#### Textual Amendments

- F15** Sch. 3 Pt. II para. 7 ceased to have effect (1.4.1997) by 1995 c. 36, s. 105(4)(5), [Sch. 4 para. 37\(6\)\(c\)](#), [Sch. 5](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)

## PART III

### NORTHERN IRELAND

[<sup>F168</sup> The following orders—

- (a) a care order under the Children (Northern Ireland) Order 1995 (as defined by Article 49(1) of that Order read with Article 2(2) and Schedule 8);
- (b) a residence order (as defined by Article 8 of that Order);

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- (c) any order made by a court in Northern Ireland under any of the following enactments—
  - (i) section 5 of the Guardianship of Infants Act 1886 (except so far as it relates to costs);
  - (ii) section 49 of the Mental Health Act (Northern Ireland) 1961;
  - (iii) Article 45(1) or (2) or 46 of the Matrimonial Causes (Northern Ireland) Order 1978;
  - (iv) Article 10(2)(a), 12(1) or 20(1)(ii) of the Domestic Proceedings (Northern Ireland) Order 1980;
  - (v) Article 27(1)(b) of the Adoption (Northern Ireland) Order 1987.]

.....

**Textual Amendments**

**F16** Sch. 3 Pt. III para. 8 substituted (4.11.1996) by S.I. 1995/756, art. 11(5); S.R. 1996/297, art. 3

9 An order made by the High Court in the exercise of its jurisdiction relating to wardship so far as it gives the care and control of a child to any person.

<sup>F17</sup>10 .....

.....

**Textual Amendments**

**F17** Sch. 3 Pt. III para. 10 repealed (4.11.1996) by S.I. 1995/756, art. 15, Sch.; S.R. 1996/297, art. 3

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