



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER I

PRELIMINARY

1 Orders to which Part I applies. **E+W+N.I.**

- (1) Subject to the following provisions of this section, in this Part “[^{F1}Part I order]” means—
- [^{F2}(a) a section 8 order made by a court in England and Wales under the Children Act 1989, other than an order varying or discharging such an order]
 - [^{F3}(aa) a special guardianship order made by a court in England and Wales under the Children Act 1989;
 - (ab) an order made under section 26 of the Adoption and Children Act 2002 (contact), other than an order varying or revoking such an order]
 - (b) an order made by a court of civil jurisdiction in Scotland under any enactment or rule of law with respect to the [^{F4}residence, custody, care or control of a child, contact with or], access to a child or the education or upbringing of a child, excluding—
 - (i) an order committing the care of a child to a local authority or placing a child under the supervision of a local authority;
 - (ii) an adoption order as defined in section 12(1) of the ^{M1}Adoption (Scotland) Act 1978;
 - (iii) an order freeing a child for adoption made under section 18 of the said Act of 1978;
 - (iv) an order [^{F5}giving parental responsibilities and parental rights in relation to] a child made in the course of proceedings for the adoption

Status: Point in time view as at 30/12/2005. There are multiple versions of this provision on screen.

These apply to different geographical extents. This version of this provision has been superseded.

Changes to legislation: Family Law Act 1986, Section 1 is up to date with all changes known to be in force on or before 30 July 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)

- of the child (other than an order made following the making of a direction under section 53(1) of the Children Act 1975);
 - (v) an order made under the ^{M2}Education (Scotland) Act 1980;
 - (vi) an order made under Part II or III of the ^{M3}Social Work (Scotland) Act 1968;
 - (vii) an order made under the ^{M4}Child Abduction and Custody Act 1985;
 - (viii) an order for the delivery of a child or other order for the enforcement of a [^{F1}Part I order];
 - (ix) an order relating to the tutory or curatory of a child;
 - [^{F6}(c) an Article 8 order made by a court in Northern Ireland under the Children (Northern Ireland) Order 1995, other than an order varying or discharging such an order;]
 - [^{F7}(d) an order made by a court in England and Wales in the exercise of the inherent jurisdiction of the High Court with respect to children—
 - (i) so far as it gives care of a child to any person or provides for contact with, or the education of, a child; but
 - (ii) excluding an order varying or revoking such an order;]
 - [^{F8}(e) an order made by the High Court in Northern Ireland in the exercise of its inherent jurisdiction with respect to children—
 - (i) so far as it gives care of a child to any person or provides for contact with, or the education of, a child; but
 - (ii) excluding an order varying or discharging such an order;]
- (2) In this Part “[^{F1}Part I order]” does not include—
- ^{F9}(a)
 - ^{F10}(b)
 - ^{F11}(c)
- [^{F12}(3) In this Part, “Part I order”—
- (a) includes any order which would have been a custody order by virtue of this section in any form in which it was in force at any time before its amendment by the Children Act 1989 [^{F13}or the Children (Northern Ireland) Order 1995, as the case may be]; and
 - (b) (subject to section 32 and 40 of this Act) excludes any order which would have been excluded from being a custody order by virtue of this section in any such form.]
- (6) Provision may be made by act of sederunt prescribing, in relation to orders within subsection (1)(b) above, what constitutes an application for the purposes of this Part.

Extent Information

E1 This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

F1 Words in S. 1(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(2)(a)**(with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

F2 S. 1(1)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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- F3** S. 1(1)(aa)(ab) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 47** (with **Sch. 4 paras. 6-8**); S.I. 2005/2213, art. 2(o)
- F4** Words in s. 1(1)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(a)**; S.I. 1996/2203, art. 3, **Sch.**
- F5** Words in s. 1(1)(b)(iv) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(b)**; S.I. 1996/2203, art. 3, **Sch.**
- F6** S. 1(1)(c) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(i)**; S.R. 1996/297, **para. 3**
- F7** S. 1(1)(d)(e) substituted (14.10.1991) for s. 1(1)(d) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(b)** (with **Sch. 14 para. 1(1)**); S.I. 1991/828, **art. 3(2)**
- F8** S. 1(1)(e) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(ii)**; S.R. 1996/297, **para. 3**
- F9** S. 1(2)(a) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F10** S. 1(2)(b) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with **Sch. 14 paras. 1(1), 27(4)**); S.I. 1991/828, **art. 3(2)**
- F11** S. 1(2)(c) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F12** S. 1(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(3)** (with **Sch. 14 para. 1(1)**); S.I. 1991/828, **art. 3(2)**
- F13** Words in s. 1(3) inserted (4.11.1996) by S.I. 1995/756, **art. 12(2)(b)**; S.R. 1996/297, **para. 3**

Marginal Citations

- M1** 1978 c. 28.
M2 1980 c. 44.
M3 1968 c. 49.
M4 1985 c. 60.

1 Orders to which Part I applies. **S**

- (1) Subject to the following provisions of this section, in this Part “[^{F14}Part I order]” means—
- [^{F15}(a) a section 8 order made by a court in England and Wales under the Children Act 1989, other than an order varying or discharging such an order]
- [^{F3}(aa) a special guardianship order made by a court in England and Wales under the Children Act 1989;
- (ab) an order made under section 26 of the Adoption and Children Act 2002 (contact), other than an order varying or revoking such an order]
- (b) an order made by a court of civil jurisdiction in Scotland under any enactment or rule of law with respect to the [^{F16}residence, custody, care or control of a child, contact with or], access to a child or the education or upbringing of a child, excluding—
- (i) an order committing the care of a child to a local authority or placing a child under the supervision of a local authority;
- (ii) an adoption order as defined in section 12(1) of the ^{M5}Adoption (Scotland) Act 1978;
- (iii) an order freeing a child for adoption made under section 18 of the said Act of 1978;
- (iv) an order [^{F17}giving parental responsibilities and parental rights in relation to] a child made in the course of proceedings for the adoption of the child (other than an order made following the making of a direction under section 53(1) of the Children Act 1975);
- (v) an order made under the ^{M6}Education (Scotland) Act 1980;

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- (vi) an order made under Part II or III of the ^{M7}Social Work (Scotland) Act 1968;
- (vii) an order made under the ^{M8}Child Abduction and Custody Act 1985;
- (viii) an order for the delivery of a child or other order for the enforcement of a [^{F14}Part I order];
- (ix) an order relating to the [^{F18}guardianship]of a child;
- [^{F19}(c) an Article 8 order made by a court in Northern Ireland under the Children (Northern Ireland) Order 1995, other than an order varying or discharging such an order;]
- [^{F20}(d) an order made by a court in England and Wales in the exercise of the inherent jurisdiction of the High Court with respect to children—
 - (i) so far as it gives care of a child to any person or provides for contact with, or the education of, a child; but
 - (ii) excluding an order varying or revoking such an order;]
- [^{F21}(e) an order made by the High Court in Northern Ireland in the exercise of its inherent jurisdiction with respect to children—
 - (i) so far as it gives care of a child to any person or provides for contact with, or the education of, a child; but
 - (ii) excluding an order varying or discharging such an order;]
- (2) In this Part “[^{F14}Part I order]” does not include—
 - ^{F22}(a)
 - ^{F23}(b)
 - ^{F24}(c)
- [^{F25}(3) In this Part, “Part I order”—
 - (a) includes any order which would have been a custody order by virtue of this section in any form in which it was in force at any time before its amendment by the Children Act 1989 [^{F26}or the Children (Northern Ireland) Order 1995, as the case may be]; and
 - (b) (subject to section 32 and 40 of this Act) excludes any order which would have been excluded from being a custody order by virtue of this section in any such form.]
- (6) Provision may be made by act of sederunt prescribing, in relation to orders within subsection (1)(b) above, what constitutes an application for the purposes of this Part.

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Textual Amendments

- F3** S. 1(1)(aa)(ab) inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 3 para. 47](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F14** Words in S. 1(1) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch. 13 para. 62\(2\)\(a\)](#)(with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F15** S. 1(1)(a) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch. 13 para. 63\(1\)\(a\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F16** Words in s. 1(1)(b) substituted (1.11.1996) by [1995 c. 36, s. 105\(4\)](#), [Sch. 4 para. 41\(2\)\(a\)](#); S.I. 1996/2203, [art. 3\(3\)](#), [Sch.](#)

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- F17** Words in s. 1(1)(b)(iv) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(b)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F18** Words in s. 1(1)(b)(ix) substituted (S.) (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), ss. 10(1), 11(2), **Sch. 1 para. 44.**
- F19** S. 1(1)(c) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(i)**; S.R. 1996/297, **para. 3**
- F20** S. 1(1)(d)(e) substituted (14.10.1991) for s. 1(1)(d) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(b)** (with Sch. 14 para. 1(1); S.I. 1991/828, **art. 3(2)**)
- F21** S. 1(1)(e) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(ii)**; S.R. 1996/297, **para. 3**
- F22** S. 1(2)(a) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F23** S. 1(2)(b) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F24** S. 1(2)(c) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F25** S. 1(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F26** Words in s. 1(3) inserted (4.11.1996) by S.I. 1995/756, **art. 12(2)(b)**; S.R. 1996/297, **para. 3**

Marginal Citations

- M5** 1978 c. 28.
M6 1980 c. 44.
M7 1968 c. 49.
M8 1985 c. 60.

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