



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER IV

JURISDICTION OF COURTS IN NORTHERN IRELAND

23 Duration and variation of custody orders.

- (1) If a [^{F1}custody order][^{F1}Part I order] made by a court in England and Wales or Scotland (or a variation of such an order) comes into force with respect to a child at a time when a [^{F1}custody order][^{F1}Part I order] made by a court in Northern Ireland has effect with respect to him, the latter order shall cease to have effect so far as it makes provision for any matter for which the same or different provision is made by (or by the variation of) the order made by the court in England and Wales or Scotland.
- (2) Where by virtue of subsection (1) above a [^{F1}custody order][^{F1}Part I order] has ceased to have effect so far as it makes provision for any matter, a court in Northern Ireland shall not have jurisdiction to vary that order so as to make provision for that matter.
- (3) A court in Northern Ireland shall not have jurisdiction—
 - (a) to vary a [^{F1}custody order][^{F1}Part I order], other than one made under Article 45(1)(a) of the ^{M1}Matrimonial Causes (Northern Ireland) Order 1978, or
 - (b) after the grant of a decree of judicial separation, to vary a [^{F1}custody order][^{F1}Part I order] made under Article 45(1)(a) of that Order,if, on the relevant date, proceedings for divorce, nullity or judicial separation are continuing in England and Wales or Scotland in respect of the marriage of the parents of the child concerned.
- (4) Subsection (3) above shall not apply if the court in which the proceedings there referred to are continuing has made—

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: Family Law Act 1986, Section 23 is up to date with all changes known to be in force on or before 31 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)

- (a) an order under section ^{F2}4(5)^{F2}2A(4) or 13(6) of this Act (not being an order made by virtue of section 13(6)(a)(i)), or
- (b) an order under section 5(2) or 14(2) of this Act which is recorded as made for the purpose of enabling ^{F3}proceedings with respect to the custody of ^{F3}Part I proceedings with respect to] the child concerned to be taken in Northern Ireland,
- and that order is in force.
- (5) Subsection (3) above shall not apply in the case of a variation of a ^{F1}custody order^{F1}Part I order] within ^{F4}section 1(1)(d)^{F4}section 1(1)(e) of this Act if the ward is present in Northern Ireland on the relevant date and the court considers that the immediate exercise of its powers is necessary for his protection.
- (6) Where any person who is entitled to the actual possession of a child under a ^{F1}custody order^{F1}Part I order] made by a court in Northern Ireland ceases to be so entitled by virtue of subsection (1) above, then, if there is in force an order for the supervision of that child made under—
- (a) Article 47 of the Matrimonial Causes (Northern Ireland) Order 1978, or
- (b) Article 11 of the ^{M2}Domestic Proceedings (Northern Ireland) Order 1980,
- that order shall also cease to have effect.
- (7) In this section “the relevant date” means—
- (a) where an application is made for a variation, the date of the application (or first application, if two or more are determined together), and
- (b) where no such application is made, the date of the variation.

Textual Amendments

- F1** Words “Part I order” substituted (*prosp.*) for “custody order” by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 13 para. 62(2)(a) (with **Sch. 14 para. 1(1)**)
- F2** “2A(4)” substituted (*prosp.*) for “4(5)” by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 13 para. 68(e) (with **Sch. 14 para. 1(1)**)
- F3** Words commencing “Part I proceedings” substituted (*prosp.*) for words commencing “proceedings with respect to” by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 13 para. 62(2)(b) (with **Sch. 14 para. 1(1)**)
- F4** “section 1(1)(e)” substituted (*prosp.*) for “section 1(1)(d)” by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 13 para. 69(b) (with **Sch. 14 para. 1(1)**)

Marginal Citations

- M1** S.I. 1978/1045 (N.I. 15).
- M2** S.I. 1980/563 (N.I. 5).

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