



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER II

JURISDICTION OF COURTS IN ENGLAND AND WALES

3 Habitual residence or presence of child.

- (1) The condition referred to in section 2 of this Act is that on the relevant date the child concerned—
- (a) is habitually resident in England and Wales, or
 - (b) is present in England and Wales and is not habitually resident in any part of the United Kingdom,
- and, in either case, the jurisdiction of the court is not excluded by subsection (2) below.
- (2) For the purposes of subsection (1) above, the jurisdiction of the court is excluded if, on the relevant date, proceedings for divorce, nullity or judicial separation are continuing in a court in Scotland or Northern Ireland in respect of the marriage of the parents of the child concerned.
- (3) Subsection (2) above shall not apply if the court in which the other proceedings there referred to are continuing has made—
- (a) an order under section 13(6) or 21(5) of this Act (not being an order made by virtue of section 13(6)(a)(I)), or
 - (b) an order under section 14(2) or 22(2) of this Act which is recorded as made for the purpose of enabling proceedings with respect to the custody of the child concerned to be taken in England and Wales,
- and that order is in force.

Status: This is the original version (as it was originally enacted).

- (4) Subject to subsections (5) and (6) below, in this section “the relevant date” means the date of the commencement of the proceedings in which the custody order falls to be made.
- (5) In a case where an application is made for a custody order under section 9(1) or 14A(2) of the Guardianship of Minors Act 1971 or section 33(1) of the Children Act 1975, “the relevant date” means the date of the application (or first application, if two or more are determined together).
- (6) In the case of a custody order within section 1(1)(d) of this Act “the relevant date” means—
- (a) where an application is made for an order, 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 order.