



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER II

JURISDICTION OF COURTS IN ENGLAND AND WALES

4 Jurisdiction in divorce proceedings, etc.

- (1) The enactments relating to the jurisdiction of courts in England and Wales to make orders under section 42(1) of the Matrimonial Causes Act 1973 shall have effect subject to the modifications provided for by this section.
- (2) In section 42(1)(b) of that Act (which enables orders as to custody and education to be made immediately, or within a reasonable period, after the dismissal of proceedings for divorce, etc.) for the words “within a reasonable period” there shall be substituted the words “(if an application for the order is made on or before the dismissal)”.
- (3) A court shall not have jurisdiction to make a custody order under section 42(1)(a) of that Act after the grant of a decree of judicial separation if on the relevant date, proceedings for divorce or nullity in respect of the marriage concerned are continuing in Scotland or Northern Ireland.
- (4) Subsection (3) 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 made 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Status: This is the original version (as it was originally enacted).

(5) Where a court—

- (a) has jurisdiction to make a custody order under section 42(1) of the Matrimonial Act 1973 in or in connection with proceedings for divorce, nullity of marriage or judicial separation, but
- (b) considers that it would be more appropriate for matters relating to the custody of the child to be determined outside England and Wales,

the court may by order direct that, while the order under this subsection is in force, no custody order under section 42(1) with respect to the child shall be made by any court in or in connection with those proceedings.

(6) In this section “the relevant date” means—

- (a) where an application is made for a custody order under section 42(1)(a), 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.