



# Children Act 1989

## 1989 CHAPTER 41

### PART II

#### ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

##### *General*

### **8 Residence, contact and other orders with respect to children.**

(1) In this Act —

“a contact order” means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;

“a prohibited steps order” means an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court;

“a residence order” means an order settling the arrangements to be made as to the person with whom a child is to live; and

“a specific issue order” means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) In this Act “a section 8 order” means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.

(3) For the purposes of this Act “family proceedings” means any proceedings—

(a) under the inherent jurisdiction of the High Court in relation to children; and

(b) under the enactments mentioned in subsection (4),

but does not include proceedings on an application for leave under section 100(3).

(4) The enactments are—

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- (a) Parts I, II and IV of this Act;
- (b) the <sup>M1</sup>Matrimonial Causes Act 1973;
- [<sup>F1</sup>(ba) Schedule 5 to the Civil Partnership Act 2004;]
- [<sup>F2</sup>(c) the <sup>M2</sup>Domestic Violence and Matrimonial Proceedings Act 1976;
- (d) the Adoption and Children Act 2002;]
- (e) the <sup>M3</sup>Domestic Proceedings and Magistrates' Courts Act 1978;
- [<sup>F3</sup>(ea) Schedule 6 to the Civil Partnership Act 2004;]
- [<sup>F2</sup>(f) sections 1 and 9 of the <sup>M4</sup>Matrimonial Homes Act 1983;]
- (g) Part III of the <sup>M5</sup>Matrimonial and Family Proceedings Act 1984.
- [<sup>F4</sup>(h) the Family Law Act 1996]
- [<sup>F5</sup>(i) sections 11 and 12 of the Crime and Disorder Act 1998.]

#### Textual Amendments

- F1** S. 8(4)(ba) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 26(1), **Sch. 27 para. 129(2)**; S.I. 2005/3175, **art. 2(2)**
- F2** S. 8(4)(c) and (f) repealed (1.10.1997) by 1996 c. 27, ss. 66(1)(3), **Sch. 8 Pt. III para. 60(1), Sch. 10** (with Sch. 9 para. 5); S.I. 1997/1892, **art. 3(1)(b)**
- F3** S. 8(4)(ea) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 26(1), **Sch. 27 para. 129(3)**; S.I. 2005/3175, **art. 2(2)**
- F4** S. 8(4)(h) inserted (1.10.1997) by 1996 c. 27, ss. 66(1), **Sch. 8 Pt. III para. 60(1)**; S.I. 1997/1892, **art. 3(a)**
- F5** S. 8(4)(i) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 68**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)** (subject to arts. 5-8)

#### Commencement Information

- I1** S. 8 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M1** 1973 c. 18.
- M2** 1976 c. 50.
- M3** 1978 c. 22.
- M4** 1983 c. 19.
- M5** 1984 c. 42.

## 9 Restrictions on making section 8 orders.

- (1) No court shall make any section 8 order, other than a residence order, with respect to a child who is in the care of a local authority.
- (2) No application may be made by a local authority for a residence order or contact order and no court shall make such an order in favour of a local authority.
- (3) A person who is, or was at any time within the last six months, a local authority foster parent of a child may not apply for leave to apply for a section 8 order with respect to the child unless—
  - (a) he has the consent of the authority;
  - (b) he is a relative of the child; or
  - (c) the child has lived with him for at least [<sup>F6</sup>one year] preceding the application.

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- (4) <sup>F7</sup> .....
- (5) No court shall exercise its powers to make a specific issue order or prohibited steps order—
- (a) with a view to achieving a result which could be achieved by making a residence or contact order; or
  - (b) in any way which is denied to the High Court (by section 100(2)) in the exercise of its inherent jurisdiction with respect to children.
- (6) [<sup>F8</sup>Subject to section 12(5)] no court shall make any section 8 order which is to have effect for a period which will end after the child has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.
- (7) No court shall make any section 8 order, other than one varying or discharging such an order, with respect to a child who has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.

#### Textual Amendments

- F6** Words in s. 9(3)(c) substituted (30.12.2005) by 2002 c. 38, ss. 113(a), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**
- F7** S. 9(4) repealed (30.12.2005) by 2002 c. 38, ss. 113(b), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**; S.I. 2005/2897, **art. 2(b)**
- F8** Words in s. 9(6) inserted (30.12.2005) by 2002 c. 38, ss. 114(2), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

#### Commencement Information

- I2** S. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 10 Power of court to make section 8 orders.

- (1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 8 order with respect to the child if—
- (a) an application for the order has been made by a person who—
    - (i) is entitled to apply for a section 8 order with respect to the child; or
    - (ii) has obtained the leave of the court to make the application; or
  - (b) the court considers that the order should be made even though no such application has been made.
- (2) The court may also make a section 8 order with respect to any child on the application of a person who—
- (a) is entitled to apply for a section 8 order with respect to the child; or
  - (b) has obtained the leave of the court to make the application.
- (3) This section is subject to the restrictions imposed by section 9.
- (4) The following persons are entitled to apply to the court for any section 8 order with respect to a child—
- (a) any parent [<sup>F9</sup>, guardian or special guardian] of the child;
  - [<sup>F10</sup>(aa) any person who by virtue of section 4A has parental responsibility for the child;]

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- (b) any person in whose favour a residence order is in force with respect to the child.
- (5) The following persons are entitled to apply for a residence or contact order with respect to a child—
- (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
  - [<sup>F11</sup>(aa) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;]
  - (b) any person with whom the child has lived for a period of at least three years;
  - (c) any person who—
    - (i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;
    - (ii) in any case where the child is in the care of a local authority, has the consent of that authority; or
    - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.
- [<sup>F12</sup>(5A) A local authority foster parent is entitled to apply for a residence order with respect to a child if the child has lived with him for a period of at least one year immediately preceding the application.]
- (6) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 8 order shall be entitled to do so if—
- (a) the order was made on his application; or
  - (b) in the case of a contact order, he is named in the order.
- (7) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 8 order as may be prescribed in relation to that category of person.
- [<sup>F13</sup>(7A) If a special guardianship order is in force with respect to a child, an application for a residence order may only be made with respect to him, if apart from this subsection the leave of the court is not required, with such leave.]
- (8) Where the person applying for leave to make an application for a section 8 order is the child concerned, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application for the section 8 order.
- (9) Where the person applying for leave to make an application for a section 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to—
- (a) the nature of the proposed application for the section 8 order;
  - (b) the applicant's connection with the child;
  - (c) any risk there might be of that proposed application disrupting the child's life to such an extent that he would be harmed by it; and
  - (d) where the child is being looked after by a local authority—
    - (i) the authority's plans for the child's future; and
    - (ii) the wishes and feelings of the child's parents.

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- (10) The period of three years mentioned in subsection (5)(b) need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application.

#### Textual Amendments

- F9** Words in s. 10(4)(a) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F10** S. 10(4)(aa) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F11** S. 10(5)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 77; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F12** S. 10(5A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F13** S. 10(7A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(d) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

#### Commencement Information

- I3** S. 10 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 11 General principles and supplementary provisions.

- (1) In proceedings in which any question of making a section 8 order, or any other question with respect to such an order, arises, the court shall (in the light of any rules made by virtue of subsection (2))—
- draw up a timetable with a view to determining the question without delay; and
  - give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.
- (2) Rules of court may—
- specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and
  - make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.
- (3) Where a court has power to make a section 8 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.
- (4) Where a residence order is made in favour of two or more persons who do not themselves all live together, the order may specify the periods during which the child is to live in the different households concerned.
- (5) Where—
- a residence order has been made with respect to a child; and
  - as a result of the order the child lives, or is to live, with one of two parents who each have parental responsibility for him,
- the residence order shall cease to have effect if the parents live together for a continuous period of more than six months.

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- (6) A contact order which requires the parent with whom a child lives to allow the child to visit, or otherwise have contact with, his other parent shall cease to have effect if the parents live together for a continuous period of more than six months.
- (7) A section 8 order may—
- (a) contain directions about how it is to be carried into effect;
  - (b) impose conditions which must be complied with by any person—
    - (i) in whose favour the order is made;
    - (ii) who is a parent of the child concerned;
    - (iii) who is not a parent of his but who has parental responsibility for him;
 or
    - (iv) with whom the child is living,
 and to whom the conditions are expressed to apply;
  - (c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period;
  - (d) make such incidental, supplemental or consequential provision as the court thinks fit.

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

**C1** S. 11(3) restricted (14. 10. 1991) by S.I. 1991/1395, r.28

**Commencement Information**

**I4** S. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

VALID FROM 07/11/2008

**[<sup>F14</sup>11A Contact activity directions**

- (1) This section applies in proceedings in which the court is considering whether to make provision about contact with a child by making—
  - (a) a contact order with respect to the child, or
  - (b) an order varying or discharging a contact order with respect to the child.
- (2) The court may make a contact activity direction in connection with that provision about contact.
- (3) A contact activity direction is a direction requiring an individual who is a party to the proceedings to take part in an activity that promotes contact with the child concerned.
- (4) The direction is to specify the activity and the person providing the activity.
- (5) The activities that may be so required include, in particular—
  - (a) programmes, classes and counselling or guidance sessions of a kind that—
    - (i) may assist a person as regards establishing, maintaining or improving contact with a child;
    - (ii) may, by addressing a person's violent behaviour, enable or facilitate contact with a child;

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- (b) sessions in which information or advice is given as regards making or operating arrangements for contact with a child, including making arrangements by means of mediation.
- (6) No individual may be required by a contact activity direction—
  - (a) to undergo medical or psychiatric examination, assessment or treatment;
  - (b) to take part in mediation.
- (7) A court may not on the same occasion—
  - (a) make a contact activity direction, and
  - (b) dispose finally of the proceedings as they relate to contact with the child concerned.
- (8) Subsection (2) has effect subject to the restrictions in sections 11B and 11E.
- (9) In considering whether to make a contact activity direction, the welfare of the child concerned is to be the court's paramount consideration.]

#### Textual Amendments

**F14** S. 11A inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 07/11/2008

#### [<sup>F15</sup>11B Contact activity directions: further provision

- (1) A court may not make a contact activity direction in any proceedings unless there is a dispute as regards the provision about contact that the court is considering whether to make in the proceedings.
- (2) A court may not make a contact activity direction requiring an individual who is a child to take part in an activity unless the individual is a parent of the child in relation to whom the court is considering provision about contact.
- (3) A court may not make a contact activity direction in connection with the making, variation or discharge of a contact order, if the contact order is, or would if made be, an excepted order.
- (4) A contact order with respect to a child is an excepted order if—
  - (a) it is made in proceedings that include proceedings on an application for a relevant adoption order in respect of the child; or
  - (b) it makes provision as regards contact between the child and a person who would be a parent or relative of the child but for the child's adoption by an order falling within subsection (5).
- (5) An order falls within this subsection if it is—
  - (a) a relevant adoption order;
  - (b) an adoption order, within the meaning of section 72(1) of the Adoption Act 1976, other than an order made by virtue of section 14 of that Act on the

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- application of a married couple one of whom is the mother or the father of the child;
- (c) a Scottish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made—
- (i) by virtue of section 14 of the Adoption (Scotland) Act 1978 on the application of a married couple one of whom is the mother or the father of the child, or
- (ii) by virtue of section 15(1)(aa) of that Act; or
- (d) a Northern Irish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made by virtue of Article 14 of the Adoption (Northern Ireland) Order 1987 on the application of a married couple one of whom is the mother or the father of the child.
- (6) A relevant adoption order is an adoption order, within the meaning of section 46(1) of the Adoption and Children Act 2002, other than an order made—
- (a) on an application under section 50 of that Act by a couple (within the meaning of that Act) one of whom is the mother or the father of the person to be adopted, or
- (b) on an application under section 51(2) of that Act.
- (7) A court may not make a contact activity direction in relation to an individual unless the individual is habitually resident in England and Wales; and a direction ceases to have effect if the individual subject to the direction ceases to be habitually resident in England and Wales.]

#### Textual Amendments

**F15** S. 11B inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 07/11/2008

#### [<sup>F16</sup>11C Contact activity conditions

- (1) This section applies if in any family proceedings the court makes—
- (a) a contact order with respect to a child, or
- (b) an order varying a contact order with respect to a child.
- (2) The contact order may impose, or the contact order may be varied so as to impose, a condition (a “contact activity condition”) requiring an individual falling within subsection (3) to take part in an activity that promotes contact with the child concerned.
- (3) An individual falls within this subsection if he is—
- (a) for the purposes of the contact order so made or varied, the person with whom the child concerned lives or is to live;
- (b) the person whose contact with the child concerned is provided for in that order; or
- (c) a person upon whom that order imposes a condition under section 11(7)(b).



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- (4) The condition is to specify the activity and the person providing the activity.
- (5) Subsections (5) and (6) of section 11A have effect as regards the activities that may be required by a contact activity condition as they have effect as regards the activities that may be required by a contact activity direction.
- (6) Subsection (2) has effect subject to the restrictions in sections 11D and 11E.]

#### Textual Amendments

**F16** S. 11C inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 07/11/2008

#### [<sup>F17</sup>11D Contact activity conditions: further provision

- (1) A contact order may not impose a contact activity condition on an individual who is a child unless the individual is a parent of the child concerned.
- (2) If a contact order is an excepted order (within the meaning given by section 11B(4)), it may not impose (and it may not be varied so as to impose) a contact activity condition.
- (3) A contact order may not impose a contact activity condition on an individual unless the individual is habitually resident in England and Wales; and a condition ceases to have effect if the individual subject to the condition ceases to be habitually resident in England and Wales.]

#### Textual Amendments

**F17** S. 11D inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 07/11/2008

#### [<sup>F18</sup>11E Contact activity directions and conditions: making

- (1) Before making a contact activity direction (or imposing a contact activity condition by means of a contact order), the court must satisfy itself as to the matters falling within subsections (2) to (4).
- (2) The first matter is that the activity proposed to be specified is appropriate in the circumstances of the case.
- (3) The second matter is that the person proposed to be specified as the provider of the activity is suitable to provide the activity.

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- (4) The third matter is that the activity proposed to be specified is provided in a place to which the individual who would be subject to the direction (or the condition) can reasonably be expected to travel.
- (5) Before making such a direction (or such an order), the court must obtain and consider information about the individual who would be subject to the direction (or the condition) and the likely effect of the direction (or the condition) on him.
- (6) Information about the likely effect of the direction (or the condition) may, in particular, include information as to—
  - (a) any conflict with the individual's religious beliefs;
  - (b) any interference with the times (if any) at which he normally works or attends an educational establishment.
- (7) The court may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) to (5); and it shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any such request.
- (8) In this section “specified” means specified in a contact activity direction (or in a contact activity condition).]

#### Textual Amendments

- F18** S. 11E inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 07/11/2008

#### <sup>F19</sup>**11F Contact activity directions and conditions: financial assistance**

- (1) The Secretary of State may by regulations make provision authorising him to make payments to assist individuals falling within subsection (2) in paying relevant charges or fees.
- (2) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child, not being a child ordinarily resident in Wales.
- (3) The National Assembly for Wales may by regulations make provision authorising it to make payments to assist individuals falling within subsection (4) in paying relevant charges or fees.
- (4) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child who is ordinarily resident in Wales.
- (5) A relevant charge or fee, in relation to an activity required by a contact activity direction or condition, is a charge or fee in respect of the activity payable to the person providing the activity.

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- (6) Regulations under this section may provide that no assistance is available to an individual unless—
- (a) the individual satisfies such conditions as regards his financial resources as may be set out in the regulations;
  - (b) the activity in which the individual is required by a contact activity direction or condition to take part is provided to him in England or Wales;
  - (c) where the activity in which the individual is required to take part is provided to him in England, it is provided by a person who is for the time being approved by the Secretary of State as a provider of activities required by a contact activity direction or condition;
  - (d) where the activity in which the individual is required to take part is provided to him in Wales, it is provided by a person who is for the time being approved by the National Assembly for Wales as a provider of activities required by a contact activity direction or condition.
- (7) Regulations under this section may make provision—
- (a) as to the maximum amount of assistance that may be paid to or in respect of an individual as regards an activity in which he is required by a contact activity direction or condition to take part;
  - (b) where the amount may vary according to an individual's financial resources, as to the method by which the amount is to be determined;
  - (c) authorising payments by way of assistance to be made directly to persons providing activities required by a contact activity direction or condition.]

#### Textual Amendments

**F19** S. 11F inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 07/11/2008

#### [<sup>F20</sup>11G Contact activity directions and conditions: monitoring

- (1) This section applies if in any family proceedings the court—
  - (a) makes a contact activity direction in relation to an individual, or
  - (b) makes a contact order that imposes, or varies a contact order so as to impose, a contact activity condition on an individual.
- (2) The court may on making the direction (or imposing the condition by means of a contact order) ask an officer of the Service or a Welsh family proceedings officer—
  - (a) to monitor, or arrange for the monitoring of, the individual's compliance with the direction (or the condition);
  - (b) to report to the court on any failure by the individual to comply with the direction (or the condition).
- (3) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).]

*Status: Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Children Act 1989, Part II is up to date with all changes known to be in force on or before 22 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)*

### Textual Amendments

**F20** S. 11G inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 08/12/2008

### [<sup>F21</sup>11H Monitoring contact

- (1) This section applies if in any family proceedings the court makes—
  - (a) a contact order with respect to a child in favour of a person, or
  - (b) an order varying such a contact order.
- (2) The court may ask an officer of the Service or a Welsh family proceedings officer—
  - (a) to monitor whether an individual falling within subsection (3) complies with the contact order (or the contact order as varied);
  - (b) to report to the court on such matters relating to the individual's compliance as the court may specify in the request.
- (3) An individual falls within this subsection if the contact order so made (or the contact order as so varied)—
  - (a) requires the individual to allow contact with the child concerned;
  - (b) names the individual as having contact with the child concerned; or
  - (c) imposes a condition under section 11(7)(b) on the individual.
- (4) If the contact order (or the contact order as varied) includes a contact activity condition, a request under subsection (2) is to be treated as relating to the provisions of the order other than the contact activity condition.
- (5) The court may make a request under subsection (2)—
  - (a) on making the contact order (or the order varying the contact order), or
  - (b) at any time during the subsequent course of the proceedings as they relate to contact with the child concerned.
- (6) In making a request under subsection (2), the court is to specify the period for which the officer of the Service or Welsh family proceedings officer is to monitor compliance with the order; and the period specified may not exceed twelve months.
- (7) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).
- (8) The court may order any individual falling within subsection (3) to take such steps as may be specified in the order with a view to enabling the officer of the Service or Welsh family proceedings officer to comply with the court's request under subsection (2).
- (9) But the court may not make an order under subsection (8) with respect to an individual who is a child unless he is a parent of the child with respect to whom the order falling within subsection (1) was made.

**Status:** Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Children Act 1989, Part II is up to date with all changes known to be in force on or before 22 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)

(10) A court may not make a request under subsection (2) in relation to a contact order that is an excepted order (within the meaning given by section 11B(4)).]

#### Textual Amendments

**F21** S. 11H inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 2, 17; S.I. 2008/2870, art. 2(2)(b)

VALID FROM 08/12/2008

#### [<sup>F22</sup>11I Contact orders: warning notices

Where the court makes (or varies) a contact order, it is to attach to the contact order (or the order varying the contact order) a notice warning of the consequences of failing to comply with the contact order.]

#### Textual Amendments

**F22** S. 11I inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 3, 17 (with s. 8); S.I. 2008/2870, art. 2(2)(b)

VALID FROM 08/12/2008

#### [<sup>F23</sup>11J Enforcement orders

- (1) This section applies if a contact order with respect to a child has been made.
- (2) If the court is satisfied beyond reasonable doubt that a person has failed to comply with the contact order, it may make an order (an “enforcement order”) imposing on the person an unpaid work requirement.
- (3) But the court may not make an enforcement order if it is satisfied that the person had a reasonable excuse for failing to comply with the contact order.
- (4) The burden of proof as to the matter mentioned in subsection (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.
- (5) The court may make an enforcement order in relation to the contact order only on the application of—
  - (a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;
  - (b) the person whose contact with the child concerned is provided for in the contact order;
  - (c) any individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or
  - (d) the child concerned.

*Status: Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Children Act 1989, Part II is up to date with all changes known to be in force on or before 22 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)*

- (6) Where the person proposing to apply for an enforcement order in relation to a contact order is the child concerned, the child must obtain the leave of the court before making such an application.
- (7) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.
- (8) Subsection (2) has effect subject to the restrictions in sections 11K and 11L.
- (9) The court may suspend an enforcement order for such period as it thinks fit.
- (10) Nothing in this section prevents a court from making more than one enforcement order in relation to the same person on the same occasion.
- (11) Proceedings in which any question of making an enforcement order, or any other question with respect to such an order, arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.
- (12) In Schedule A1—
  - (a) Part 1 makes provision as regards an unpaid work requirement;
  - (b) Part 2 makes provision in relation to the revocation and amendment of enforcement orders and failure to comply with such orders.
- (13) This section is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to contact orders.]

#### Textual Amendments

- F23** S. 11J inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), ss. **4(1)**, 17 (with s. 8); S.I. 2008/2870, art. **2(2)(c)**

VALID FROM 08/12/2008

#### <sup>F24</sup> **11K Enforcement orders: further provision**

- (1) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—
  - (a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;
  - (b) in any other case, a notice under section 11I relating to the contact order.
- (2) A court may not make an enforcement order against a person in respect of any failure to comply with a contact order occurring before the person attained the age of 18.
- (3) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).

**Status:** Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Children Act 1989, Part II is up to date with all changes known to be in force on or before 22 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)

- (4) A court may not make an enforcement order against a person unless the person is habitually resident in England and Wales; and an enforcement order ceases to have effect if the person subject to the order ceases to be habitually resident in England and Wales.]

#### Textual Amendments

**F24** S. 11K inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 4(1), 17 (with s. 8); S.I. 2008/2870, art. 2(2)(c)

VALID FROM 08/12/2008

#### <sup>F25</sup> 11L Enforcement orders: making

- (1) Before making an enforcement order as regards a person in breach of a contact order, the court must be satisfied that—
  - (a) making the enforcement order proposed is necessary to secure the person's compliance with the contact order or any contact order that has effect in its place;
  - (b) the likely effect on the person of the enforcement order proposed to be made is proportionate to the seriousness of the breach of the contact order.
- (2) Before making an enforcement order, the court must satisfy itself that provision for the person to work under an unpaid work requirement imposed by an enforcement order can be made in the local justice area in which the person in breach resides or will reside.
- (3) Before making an enforcement order as regards a person in breach of a contact order, the court must obtain and consider information about the person and the likely effect of the enforcement order on him.
- (4) Information about the likely effect of the enforcement order may, in particular, include information as to—
  - (a) any conflict with the person's religious beliefs;
  - (b) any interference with the times (if any) at which he normally works or attends an educational establishment.
- (5) A court that proposes to make an enforcement order may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) and (3).
- (6) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.
- (7) In making an enforcement order in relation to a contact order, a court must take into account the welfare of the child who is the subject of the contact order.]

*Status: Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Children Act 1989, Part II is up to date with all changes known to be in force on or before 22 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)*

#### Textual Amendments

**F25** S. 11L inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

#### [<sup>F26</sup>11M Enforcement orders: monitoring

- (1) On making an enforcement order in relation to a person, the court is to ask an officer of the Service or a Welsh family proceedings officer—
- (a) to monitor, or arrange for the monitoring of, the person's compliance with the unpaid work requirement imposed by the order;
  - (b) to report to the court if a report under paragraph 8 of Schedule A1 is made in relation to the person;
  - (c) to report to the court on such other matters relating to the person's compliance as may be specified in the request;
  - (d) to report to the court if the person is, or becomes, unsuitable to perform work under the requirement.
- (2) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.]

#### Textual Amendments

**F26** S. 11M inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

#### [<sup>F27</sup>11N Enforcement orders: warning notices

Where the court makes an enforcement order, it is to attach to the order a notice warning of the consequences of failing to comply with the order.]

#### Textual Amendments

**F27** S. 11N inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

#### [<sup>F28</sup>11O Compensation for financial loss

- (1) This section applies if a contact order with respect to a child has been made.



*Status:* Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.

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- (2) If the court is satisfied that—
  - (a) an individual has failed to comply with the contact order, and
  - (b) a person falling within subsection (6) has suffered financial loss by reason of the breach,it may make an order requiring the individual in breach to pay the person compensation in respect of his financial loss.
- (3) But the court may not make an order under subsection (2) if it is satisfied that the individual in breach had a reasonable excuse for failing to comply with the contact order.
- (4) The burden of proof as to the matter mentioned in subsection (3) lies on the individual claiming to have had a reasonable excuse.
- (5) An order under subsection (2) may be made only on an application by the person who claims to have suffered financial loss.
- (6) A person falls within this subsection if he is—
  - (a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;
  - (b) the person whose contact with the child concerned is provided for in the contact order;
  - (c) an individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or
  - (d) the child concerned.
- (7) Where the person proposing to apply for an order under subsection (2) is the child concerned, the child must obtain the leave of the court before making such an application.
- (8) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.
- (9) The amount of compensation is to be determined by the court, but may not exceed the amount of the applicant's financial loss.
- (10) In determining the amount of compensation payable by the individual in breach, the court must take into account the individual's financial circumstances.
- (11) An amount ordered to be paid as compensation may be recovered by the applicant as a civil debt due to him.
- (12) Subsection (2) has effect subject to the restrictions in section 11P.
- (13) Proceedings in which any question of making an order under subsection (2) arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.
- (14) In exercising its powers under this section, a court is to take into account the welfare of the child concerned.]

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#### Textual Amendments

**F28** S. 11O inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 5, 17**; S.I. 2008/2870, **art. 2(2)(d)**

VALID FROM 08/12/2008

#### [<sup>F29</sup>11P Orders under section 11O(2): further provision

- (1) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order unless it is satisfied that before the failure occurred the individual had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—
  - (a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;
  - (b) in any other case, a notice under section 11I relating to the contact order.
- (2) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order where the failure occurred before the individual attained the age of 18.
- (3) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).]

#### Textual Amendments

**F29** S. 11P inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 5, 17** (with s. 8); S.I. 2008/2870, **art. 2(2)(d)**

## 12 Residence orders and parental responsibility.

- (1) Where the court makes a residence order in favour of the father of a child it shall, if the father would not otherwise have parental responsibility for the child, also make an order under section 4 giving him that responsibility.
- (2) Where the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned that person shall have parental responsibility for the child while the residence order remains in force.
- (3) Where a person has parental responsibility for a child as a result of subsection (2), he shall not have the right—
  - (a) <sup>F30</sup> .....
  - (b) to agree, or refuse to agree, to the making of an adoption order, or an order under [<sup>F31</sup>section 84 of the Adoption and Children Act 2002], with respect to the child; or
  - (c) to appoint a guardian for the child.

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- (4) Where subsection (1) requires the court to make an order under section 4 in respect of the father of a child, the court shall not bring that order to an end at any time while the residence order concerned remains in force.
- [<sup>F32</sup>(5) The power of a court to make a residence order in favour of any person who is not the parent or guardian of the child concerned includes power to direct, at the request of that person, that the order continue in force until the child reaches the age of eighteen (unless the order is brought to an end earlier); and any power to vary a residence order is exercisable accordingly.
- (6) Where a residence order includes such a direction, an application to vary or discharge the order may only be made, if apart from this subsection the leave of the court is not required, with such leave]

#### Textual Amendments

- F30** S. 12(3)(a) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 57(a), Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(a)**
- F31** Words in s. 12(3)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 57(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F32** S. 12(5)(6) inserted (30.12.2005) by 2002 c. 38, ss. 114(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

#### Commencement Information

- I5** S. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

### 13 Change of child's name or removal from jurisdiction.

- (1) Where a residence order is in force with respect to a child, no person may—
- cause the child to be known by a new surname; or
  - remove him from the United Kingdom;
- without either the written consent of every person who has parental responsibility for the child or the leave of the court.
- (2) Subsection (1)(b) does not prevent the removal of a child, for a period of less than one month, by the person in whose favour the residence order is made.
- (3) In making a residence order with respect to a child the court may grant the leave required by subsection (1)(b), either generally or for specified purposes.

#### Commencement Information

- I6** S. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

### 14 Enforcement of residence orders.

- (1) Where—
- a residence order is in force with respect to a child in favour of any person; and
  - any other person (including one in whose favour the order is also in force) is in breach of the arrangements settled by that order,

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the person mentioned in paragraph (a) may, as soon as the requirement in subsection (2) is complied with, enforce the order under section 63(3) of the <sup>M6</sup>Magistrates' Courts Act 1980 as if it were an order requiring the other person to produce the child to him.

- (2) The requirement is that a copy of the residence order has been served on the other person.
- (3) Subsection (1) is without prejudice to any other remedy open to the person in whose favour the residence order is in force.

#### Commencement Information

**I7** S. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

**M6** 1980 c. 43.

### *<sup>F33</sup>Special guardianship*

#### Textual Amendments

**F33** Ss. 14A-14G and heading inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, {art. 2k}

### <sup>F34</sup>14A Special guardianship orders

- (1) A “special guardianship order” is an order appointing one or more individuals to be a child’s “special guardian” (or special guardians).
- (2) A special guardian—
  - (a) must be aged eighteen or over; and
  - (b) must not be a parent of the child in question,
 and subsections (3) to (6) are to be read in that light.
- (3) The court may make a special guardianship order with respect to any child on the application of an individual who—
  - (a) is entitled to make such an application with respect to the child; or
  - (b) has obtained the leave of the court to make the application,
 or on the joint application of more than one such individual.
- (4) Section 9(3) applies in relation to an application for leave to apply for a special guardianship order as it applies in relation to an application for leave to apply for a section 8 order.
- (5) The individuals who are entitled to apply for a special guardianship order with respect to a child are—
  - (a) any guardian of the child;
  - (b) any individual in whose favour a residence order is in force with respect to the child;

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- (c) any individual listed in subsection (5)(b) or (c) of section 10 (as read with subsection (10) of that section);
  - (d) a local authority foster parent with whom the child has lived for a period of at least one year immediately preceding the application.
- (6) The court may also make a special guardianship order with respect to a child in any family proceedings in which a question arises with respect to the welfare of the child if—
- (a) an application for the order has been made by an individual who falls within subsection (3)(a) or (b) (or more than one such individual jointly); or
  - (b) the court considers that a special guardianship order should be made even though no such application has been made.
- (7) No individual may make an application under subsection (3) or (6)(a) unless, before the beginning of the period of three months ending with the date of the application, he has given written notice of his intention to make the application—
- (a) if the child in question is being looked after by a local authority, to that local authority, or
  - (b) otherwise, to the local authority in whose area the individual is ordinarily resident.
- (8) On receipt of such a notice, the local authority must investigate the matter and prepare a report for the court dealing with—
- (a) the suitability of the applicant to be a special guardian;
  - (b) such matters (if any) as may be prescribed by the Secretary of State; and
  - (c) any other matter which the local authority consider to be relevant.
- (9) The court may itself ask a local authority to conduct such an investigation and prepare such a report, and the local authority must do so.
- (10) The local authority may make such arrangements as they see fit for any person to act on their behalf in connection with conducting an investigation or preparing a report referred to in subsection (8) or (9).
- (11) The court may not make a special guardianship order unless it has received a report dealing with the matters referred to in subsection (8).
- (12) Subsections (8) and (9) of section 10 apply in relation to special guardianship orders as they apply in relation to section 8 orders.
- (13) This section is subject to section 29(5) and (6) of the Adoption and Children Act 2002.

#### Textual Amendments

**F34** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(k)

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

**C2** S. 14A(7) applied (with modifications) (30.12.2005) by 2002 c. 38, ss. 29(6), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(c)

*Status: Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.*

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### <sup>F35</sup>14B Special guardianship orders: making

- (1) Before making a special guardianship order, the court must consider whether, if the order were made—
  - (a) a contact order should also be made with respect to the child, and
  - (b) any section 8 order in force with respect to the child should be varied or discharged.
- (2) On making a special guardianship order, the court may also—
  - (a) give leave for the child to be known by a new surname;
  - (b) grant the leave required by section 14C(3)(b), either generally or for specified purposes.

#### Textual Amendments

**F35** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(k)

### <sup>F36</sup>14C Special guardianship orders: effect

- (1) The effect of a special guardianship order is that while the order remains in force—
  - (a) a special guardian appointed by the order has parental responsibility for the child in respect of whom it is made; and
  - (b) subject to any other order in force with respect to the child under this Act, a special guardian is entitled to exercise parental responsibility to the exclusion of any other person with parental responsibility for the child (apart from another special guardian).
- (2) Subsection (1) does not affect—
  - (a) the operation of any enactment or rule of law which requires the consent of more than one person with parental responsibility in a matter affecting the child; or
  - (b) any rights which a parent of the child has in relation to the child's adoption or placement for adoption.
- (3) While a special guardianship order is in force with respect to a child, no person may—
  - (a) cause the child to be known by a new surname; or
  - (b) remove him from the United Kingdom,
 without either the written consent of every person who has parental responsibility for the child or the leave of the court.
- (4) Subsection (3)(b) does not prevent the removal of a child, for a period of less than three months, by a special guardian of his.
- (5) If the child with respect to whom a special guardianship order is in force dies, his special guardian must take reasonable steps to give notice of that fact to—
  - (a) each parent of the child with parental responsibility; and
  - (b) each guardian of the child,
 but if the child has more than one special guardian, and one of them has taken such steps in relation to a particular parent or guardian, any other special guardian need not do so as respects that parent or guardian.

*Status: Point in time view as at 27/10/2008. This version of this part contains provisions that are not valid for this point in time.*

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(6) This section is subject to section 29(7) of the Adoption and Children Act 2002.

#### Textual Amendments

**F36** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(k)

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

**C3** S. 14C(1)(b) modified (30.12.2005) by 2002 c. 38, ss. 29(7)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(c)

**C4** S. 14C(3)(4) excluded (30.12.2005) by 2002 c. 38, ss. 29(7)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(c)

### <sup>F37</sup> 14D Special guardianship orders: variation and discharge

- (1) The court may vary or discharge a special guardianship order on the application of—
  - (a) the special guardian (or any of them, if there are more than one);
  - (b) any parent or guardian of the child concerned;
  - (c) any individual in whose favour a residence order is in force with respect to the child;
  - (d) any individual not falling within any of paragraphs (a) to (c) who has, or immediately before the making of the special guardianship order had, parental responsibility for the child;
  - (e) the child himself; or
  - (f) a local authority designated in a care order with respect to the child.
- (2) In any family proceedings in which a question arises with respect to the welfare of a child with respect to whom a special guardianship order is in force, the court may also vary or discharge the special guardianship order if it considers that the order should be varied or discharged, even though no application has been made under subsection (1).
- (3) The following must obtain the leave of the court before making an application under subsection (1)—
  - (a) the child;
  - (b) any parent or guardian of his;
  - (c) any step-parent of his who has acquired, and has not lost, parental responsibility for him by virtue of section 4A;
  - (d) any individual falling within subsection (1)(d) who immediately before the making of the special guardianship order had, but no longer has, parental responsibility for him.
- (4) Where the person applying for leave to make an application under subsection (1) is the child, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application under subsection (1).
- (5) The court may not grant leave to a person falling within subsection (3)(b)(c) or (d) unless it is satisfied that there has been a significant change in circumstances since the making of the special guardianship order.

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#### Textual Amendments

**F37** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(k)

### <sup>F38</sup>14E Special guardianship orders: supplementary

- (1) In proceedings in which any question of making, varying or discharging a special guardianship order arises, the court shall (in the light of any rules made by virtue of subsection (3))—
  - (a) draw up a timetable with a view to determining the question without delay; and
  - (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that the timetable is adhered to.
- (2) Subsection (1) applies also in relation to proceedings in which any other question with respect to a special guardianship order arises.
- (3) The power to make rules in subsection (2) of section 11 applies for the purposes of this section as it applies for the purposes of that.
- (4) A special guardianship order, or an order varying one, may contain provisions which are to have effect for a specified period.
- (5) Section 11(7) (apart from paragraph (c)) applies in relation to special guardianship orders and orders varying them as it applies in relation to section 8 orders.

#### Textual Amendments

**F38** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(k)

### <sup>F39</sup>14F Special guardianship support services

- (1) Each local authority must make arrangements for the provision within their area of special guardianship support services, which means—
  - (a) counselling, advice and information; and
  - (b) such other services as are prescribed,
 in relation to special guardianship.
- (2) The power to make regulations under subsection (1)(b) is to be exercised so as to secure that local authorities provide financial support.
- (3) At the request of any of the following persons—
  - (a) a child with respect to whom a special guardianship order is in force;
  - (b) a special guardian;
  - (c) a parent;
  - (d) any other person who falls within a prescribed description,
 a local authority may carry out an assessment of that person's needs for special guardianship support services (but, if the Secretary of State so provides in regulations,



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- they must do so if he is a person of a prescribed description, or if his case falls within a prescribed description, or if both he and his case fall within prescribed descriptions).
- (4) A local authority may, at the request of any other person, carry out an assessment of that person's needs for special guardianship support services.
  - (5) Where, as a result of an assessment, a local authority decide that a person has needs for special guardianship support services, they must then decide whether to provide any such services to that person.
  - (6) If—
    - (a) a local authority decide to provide any special guardianship support services to a person, and
    - (b) the circumstances fall within a prescribed description,the local authority must prepare a plan in accordance with which special guardianship support services are to be provided to him, and keep the plan under review.
  - (7) The Secretary of State may by regulations make provision about assessments, preparing and reviewing plans, the provision of special guardianship support services in accordance with plans and reviewing the provision of special guardianship support services.
  - (8) The regulations may in particular make provision—
    - (a) about the type of assessment which is to be carried out, or the way in which an assessment is to be carried out;
    - (b) about the way in which a plan is to be prepared;
    - (c) about the way in which, and the time at which, a plan or the provision of special guardianship support services is to be reviewed;
    - (d) about the considerations to which a local authority are to have regard in carrying out an assessment or review or preparing a plan;
    - (e) as to the circumstances in which a local authority may provide special guardianship support services subject to conditions (including conditions as to payment for the support or the repayment of financial support);
    - (f) as to the consequences of conditions imposed by virtue of paragraph (e) not being met (including the recovery of any financial support provided);
    - (g) as to the circumstances in which this section may apply to a local authority in respect of persons who are outside that local authority's area;
    - (h) as to the circumstances in which a local authority may recover from another local authority the expenses of providing special guardianship support services to any person.
  - (9) A local authority may provide special guardianship support services (or any part of them) by securing their provision by—
    - (a) another local authority; or
    - (b) a person within a description prescribed in regulations of persons who may provide special guardianship support services,and may also arrange with any such authority or person for that other authority or that person to carry out the local authority's functions in relation to assessments under this section.
  - (10) A local authority may carry out an assessment of the needs of any person for the purposes of this section at the same time as an assessment of his needs is made under any other provision of this Act or under any other enactment.

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- (11) Section 27 (co-operation between authorities) applies in relation to the exercise of functions of a local authority under this section as it applies in relation to the exercise of functions of a local authority under Part 3.

#### Textual Amendments

**F39** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

### <sup>F40</sup>14G Special guardianship support services: representations

[<sup>F41</sup>(1) Every local authority shall establish a procedure for considering representations (including complaints) made to them by any person to whom they may provide special guardianship support services about the discharge of their functions under section 14F in relation to him.

(2) Regulations may be made by the Secretary of State imposing time limits on the making of representations under subsection (1).

(3) In considering representations under subsection (1), a local authority shall comply with regulations (if any) made by the Secretary of State for the purposes of this subsection.]]

#### Textual Amendments

**F40** Ss. 14A-14G inserted (30.12.2005) by 2002 c. 38, ss. 115(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

**F41** S. 14G ceases to have effect (17.1.2005 for E. and 30.12.2005 for W.) by virtue of **Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 117(2)**; S.I. 2005/38, **art. 2(b)**; S.I. 2005/3285, **art. 2(1)**; and s. 14G repealed (prosp.) by that same amending Act, s. 196, {Sch. 14 Pt. 2}

### *Financial relief*

## 15 Orders for financial relief with respect to children.

(1) Schedule 1 (which consists primarily of the re-enactment, with consequential amendments and minor modifications, of provisions of [<sup>F42</sup>section 6 of Family Law Reform Act 1969]the Guardianship of Minors Acts 1971 and 1973, the <sup>M7</sup>Children Act 1975 and of sections 15 and 16 of the <sup>M8</sup>Family Law Reform Act 1987) makes provision in relation to financial relief for children.

(2) The powers of a magistrates' court under section 60 of the Magistrates' Courts Act 1980 to revoke, revive or vary an order for the periodical payment of money [<sup>F43</sup>and the power of the clerk of a magistrates' court to vary such an order] shall not apply in relation to an order made under Schedule 1.

#### Textual Amendments

**F42** Words in s. 15(1) inserted (14.10.1991) by **Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 10(1)**; S.I. 1991/1883, art. 3, **Sch.**

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**F43** Words in s. 15(2) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para.10**; S.I. 1992/455, **art. 2**.

**Commencement Information**

**I8** S. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**Marginal Citations**

**M7** 1975 c. 72.

**M8** 1987 c. 42.

*Family assistance orders*

**16 Family assistance orders.**

- (1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make an order requiring—
  - (a) [<sup>F44</sup>an officer of the Service][<sup>F45</sup>or a Welsh family proceedings officer] to be made available; or
  - (b) a local authority to make an officer of the authority available, to advise, assist and (where appropriate) befriend any person named in the order.
- (2) The persons who may be named in an order under this section (“a family assistance order”) are—
  - (a) any parent [<sup>F46</sup>, guardian or special guardian] of the child;
  - (b) any person with whom the child is living or in whose favour a contact order is in force with respect to the child;
  - (c) the child himself.
- (3) No court may make a family assistance order unless—
  - (a) <sup>F47</sup> .....
  - (b) it has obtained the consent of every person to be named in the order other than the child.
- (4) A family assistance order may direct—
  - (a) the person named in the order; or
  - (b) such of the persons named in the order as may be specified in the order, to take such steps as may be so specified with a view to enabling the officer concerned to be kept informed of the address of any person named in the order and to be allowed to visit any such person.
- [<sup>F48</sup>(4A) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a contact order made with respect to the child, the family assistance order may direct the officer concerned to give advice and assistance as regards establishing, improving and maintaining contact to such of the persons named in the order as may be specified in the order.]
- (5) Unless it specifies a shorter period, a family assistance order shall have effect for a period of [<sup>F49</sup>twelve months] beginning with the day on which it is made.

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[<sup>F50</sup>(6) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a section 8 order made with respect to the child, the family assistance order may direct the officer concerned to report to the court on such matters relating to the section 8 order as the court may require (including the question whether the section 8 order ought to be varied or discharged).]

(7) A family assistance order shall not be made so as to require a local authority to make an officer of theirs available unless—

- (a) the authority agree; or
- (b) the child concerned lives or will live within their area.

<sup>F51</sup>(8) .....

<sup>F51</sup>(9) .....

**Textual Amendments**

- F44** Words in s. 16(1)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 89(a)**; S.I. 2001/919, **art. 2(f)(ii)**
- F45** Words in s. 16(1) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 7**; S.I. 2005/700, **art. 2(2)**
- F46** Words in s. 16(2)(a) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 58 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F47** S. 16(3)(a) repealed (1.10.2007 for certain purposes and 8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 6(2), 15, 17, **Sch. 3**; S.I. 2007/2287, **art. 2(2)(a)(d)**; S.I. 2008/2870, **art. 2(2)(f)**
- F48** S. 16(4A) inserted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 6(3)**, 17; S.I. 2007/2287, **art. 2(2)(a)**
- F49** Words in s. 16(5) substituted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 6(4)**, 17; S.I. 2007/2287, **art. 2(2)(a)**
- F50** S. 16(6) substituted (1.10.2007) by Children and Adoption Act 2006 (c. 20), **ss. 6(5)**, 17; S.I. 2007/2287, **art. 2(2)(a)**
- F51** S. 16(8)(9) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 89(b), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

**Commencement Information**

- I9** S. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

VALID FROM 01/10/2010

[<sup>F52</sup>**16A Risk assessments**

(1) This section applies to the following functions of officers of the Service or Welsh family proceedings officers—

- (a) any function in connection with family proceedings in which the court has power to make an order under this Part with respect to a child or in which a question with respect to such an order arises;
- (b) any function in connection with an order made by the court in such proceedings.

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- (2) If, in carrying out any function to which this section applies, an officer of the Service or a Welsh family proceedings officer is given cause to suspect that the child concerned is at risk of harm, he must—
- (a) make a risk assessment in relation to the child, and
  - (b) provide the risk assessment to the court.
- (3) A risk assessment, in relation to a child who is at risk of suffering harm of a particular sort, is an assessment of the risk of that harm being suffered by the child.]

#### Textual Amendments

**F52** S. 16A inserted (1.10.2007) by Children and Adoption Act 2006 (c. 20), ss. 7, 17; S.I. 2007/2287, art. 2(2)(b)

**Status:**

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