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SCHEDULES

[^{F1}SCHEDULE A1

ENFORCEMENT ORDERS

Textual Amendments

- F1** Sch. A1 inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), s. 4, [Sch. 1](#); S.I. 2008/2870, [art. 2\(2\)\(c\)](#)

PART 1

UNPAID WORK REQUIREMENT

General

- 1 Subject to the modifications in paragraphs 2 and 3, Chapter 4 of Part 12 of the Criminal Justice Act 2003 has effect in relation to an enforcement order as it has effect in relation to a community order (within the meaning of Part 12 of that Act).

References to an offender

- 2 Subject to paragraph 3, references in Chapter 4 of Part 12 of the Criminal Justice Act 2003 to an offender are to be treated as including references to a person subject to an enforcement order.

Specific modifications

- 3 ^{F2}(1)

(2) In section 198 (duties of responsible officer)—

(a) in subsection (1)—

(i) at the end of paragraph (a) insert “ and ” , and

(ii) omit paragraph (c) and the word “and” immediately preceding it, and

(b) after subsection (1) insert—

“(1A) Subsection (1B) applies where—

(a) an enforcement order is in force, and

(b) an officer of the Children and Family Court Advisory and Support Service or a Welsh family proceedings officer (as defined in section 35 of the Children Act 2004) is required under section 11M of the Children Act 1989 to report on matters relating to the order.

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- (1B) The officer of the Service or the Welsh family proceedings officer may request the responsible officer to report to him on such matters relating to the order as he may require for the purpose of making a report under section 11M(1)(c) or (d); and it shall be the duty of the responsible officer to comply with such a request.”
- (3) In section 199 (unpaid work requirement)—
- ^{F3}(a)
- (b) omit subsections (3) and (4), and
- (c) in subsection (5) for the words from the beginning to “of them” substitute “ Where on the same occasion and in relation to the same person the court makes more than one enforcement order imposing an unpaid work requirement ” .
- (4) In section 200 (obligations of person subject to unpaid work requirement), for subsection (2) substitute—
- “(2) Subject to paragraphs 7 and 9 of Schedule A1 to the Children Act 1989, the work required to be performed under an unpaid work requirement imposed by an enforcement order must be performed during a period of twelve months.
- (2A) But the period of twelve months is not to run while the enforcement order is suspended under section 11J(9) of the Children Act 1989.”
- (5) Section 217 (requirement to avoid conflict with religious beliefs, etc) is omitted.
- (6) In section 218 (availability of arrangements in local area), subsection (1)(condition for imposition of unpaid work requirement) is omitted.
- (7) Section 219 (provision of copies of relevant order) is omitted.
- [In section 220(1) (duty of offender to keep in touch with responsible officer), at the ^{F4}(7A) end of paragraph (a) insert
- (b) must notify the responsible officer of any change of address.”
- (7B) Section 220A (duty to obtain permission before changing residence) is omitted.]
- (8) The power of the Secretary of State to make rules under section 222 in relation to persons subject to relevant orders may also be exercised in relation to persons subject to enforcement orders.
- (9) The power of the Secretary of State by order under section 223(1) to amend the provision mentioned in section 223(1)(a) includes power to amend this Part so as to make such modifications of Chapter 4 of Part 12 of the Criminal Justice Act 2003 as appear to the Secretary of State to be necessary or expedient in consequence of any amendment of the provision mentioned in section 223(1)(a).

Textual Amendments

- F2** Sch. A1 para. 3(1) omitted (1.6.2014) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 9](#); S.I. 2014/1287, art. 2(d)
- F3** Sch. A1 para. 3(2)(a) omitted (1.6.2014) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 9](#); S.I. 2014/1287, art. 2(d)

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- F4** Sch. A1 para. 3(7A)(7B) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. 18(12), 22(1) (with Sch. 7 para. 7); S.I. 2015/40, art. 2(p)

PART 2

REVOCATION, AMENDMENT OR BREACH OF ENFORCEMENT ORDER

Power to revoke

- 4 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a [^{F5}provision of a child arrangements] order and the enforcement order is in force.
- (2) The court may revoke the enforcement order if it appears to the court that—
- (a) in all the circumstances no enforcement order should have been made,
 - (b) having regard to circumstances which have arisen since the enforcement order was made, it would be appropriate for the enforcement order to be revoked, or
 - (c) having regard to the person's satisfactory compliance with the [^{F6}child arrangements] order or any [^{F6}child arrangements] order that has effect in its place, it would be appropriate for the enforcement order to be revoked.
- (3) The enforcement order may be revoked by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.
- (4) In deciding whether to revoke the enforcement order under sub-paragraph (2)(b), the court is to take into account—
- (a) the extent to which the person subject to the enforcement order has complied with it, and
 - (b) the likelihood that the person will comply with the [^{F7}child arrangements] order or any contact order that has effect in its place in the absence of an enforcement order.
- (5) In deciding whether to revoke the enforcement order under sub-paragraph (2)(c), the court is to take into account the likelihood that the person will comply with the [^{F8}child arrangements] order or any [^{F8}child arrangements] order that has effect in its place in the absence of an enforcement order.

Textual Amendments

- F5** Words in Sch. A1 para. 4(1) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 39(2); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F6** Words in Sch. A1 para. 4(2)(c) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 39(3); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F7** Words in Sch. A1 para. 4(4)(b) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 39(3); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F8** Words in Sch. A1 para. 4(5) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 39(3); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

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Amendment by reason of change of residence

- 5 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a [^{F9}provision of a child arrangements] order and the enforcement order is in force.
- (2) If the court is satisfied that the person has changed, or proposes to change, his residence from the local justice area specified in the order to another local justice area, the court may amend the order by substituting the other area for the area specified.
- (3) The enforcement order may be amended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Textual Amendments

- F9** Words in Sch. A1 para. 5(1) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 39\(2\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))

Amendment of hours specified under unpaid work requirement

- 6 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a [^{F10}provision of a child arrangements] order and the enforcement order is in force.
- (2) If it appears to the court that, having regard to circumstances that have arisen since the enforcement order was made, it would be appropriate to do so, the court may reduce the number of hours specified in the order (but not below the minimum specified in section 199(2)(a) of the Criminal Justice Act 2003).
- (3) In amending the enforcement order under sub-paragraph (2), the court must be satisfied that the effect on the person of the enforcement order as proposed to be amended is no more than is required to secure his compliance with the [^{F11}child arrangements] order or any [^{F11}child arrangements] order that has effect in its place.
- (4) The enforcement order may be amended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Textual Amendments

- F10** Words in Sch. A1 para. 6(1) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 39\(2\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))
- F11** Words in Sch. A1 para. 6(3) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 39\(3\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))

Amendment to extend unpaid work requirement

- 7 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a [^{F12}provision of a child arrangements] order and the enforcement order is in force.
- (2) If it appears to the court that, having regard to circumstances that have arisen since the enforcement order was made, it would be appropriate to do so, the court may, in

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relation to the order, extend the period of twelve months specified in section 200(2) of the Criminal Justice Act 2003 (as substituted by paragraph 3).

- (3) The period may be extended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Textual Amendments

F12 Words in Sch. A1 para. 7(1) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 39\(2\)](#); [S.I. 2014/889, art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042, arts. 3, 4, 6-10](#))

Warning and report following breach

- 8 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a [F13 provision of a child arrangements] order.
- (2) If the responsible officer is of the opinion that the person has failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order, the officer must give the person a warning under this paragraph unless—
- (a) the person has within the previous twelve months been given a warning under this paragraph in relation to a failure to comply with the unpaid work requirement, or
- (b) the responsible officer reports the failure to the appropriate person.
- (3) A warning under this paragraph must—
- (a) describe the circumstances of the failure,
- (b) state that the failure is unacceptable, and
- (c) inform the person that, if within the next twelve months he again fails to comply with the unpaid work requirement, the warning and the subsequent failure will be reported to the appropriate person.
- (4) The responsible officer must, as soon as practicable after the warning has been given, record that fact.
- (5) If—
- (a) the responsible officer has given a warning under this paragraph to a person subject to an enforcement order, and
- (b) at any time within the twelve months beginning with the date on which the warning was given, the responsible officer is of the opinion that the person has since that date failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order,
- the officer must report the failure to the appropriate person.
- (6) A report under sub-paragraph (5) must include a report of the warning given to the person subject to the enforcement order.
- (7) The appropriate person, in relation to an enforcement order, is the officer of the Service or the Welsh family proceedings officer who is required under section 11M to report on matters relating to the enforcement order.

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- (8) “Responsible officer”, in relation to a person subject to an enforcement order, has the same meaning as in section 197 of the Criminal Justice Act 2003 (as modified by paragraph 2).

Textual Amendments

F13 Words in Sch. A1 para. 8(1) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(2); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)

Breach of an enforcement order

- 9 (1) This paragraph applies where a court has made an enforcement order (“the first order”) in respect of a person's failure to comply with a [^{F14} provision of a child arrangements] order.
- (2) If the court is satisfied beyond reasonable doubt that the person has failed to comply with the unpaid work requirement imposed by the first order, the court may—
- (a) amend the first order so as to make the requirement more onerous, or
 - (b) make an enforcement order (“the second order”) in relation to the person and (if the first order is still in force) provide for the second order to have effect either in addition to or in substitution for the first order.
- (3) But the court may not exercise its powers under sub-paragraph (2) if it is satisfied that the person had a reasonable excuse for failing to comply with the unpaid work requirement imposed by the first order.
- (4) The burden of proof as to the matter mentioned in sub-paragraph (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 exercise its powers under sub-paragraph (2) in relation to the first order only on the application of a person who would be able to apply under section 11J for an enforcement order if the failure to comply with the first order were a failure to comply with [^{F15}a provision of the child arrangements] order to which the first order relates.
- (6) Where the person proposing to apply to the court is the child with respect to whom the [^{F16}child arrangements] order was made, subsections (6) and (7) of section 11J have effect in relation to the application as they have effect in relation to an application for an enforcement order.
- (7) An application to the court to exercise its powers under sub-paragraph (2) may only be made while the first order is in force.
- (8) The court may not exercise its powers under sub-paragraph (2) in respect of a failure by the person to comply with the unpaid work requirement imposed by the first 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 notice under section 11N relating to the first order.
- (9) In dealing with the person under sub-paragraph (2)(a), the court may—

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- (a) increase the number of hours specified in the first order (but not above the maximum specified in section 199(2)(b) of the Criminal Justice Act 2003, as substituted by paragraph 3);
 - (b) in relation to the order, extend the period of twelve months specified in section 200(2) of the Criminal Justice Act 2003 (as substituted by paragraph 3).
- (10) In exercising its powers under sub-paragraph (2), the court must be satisfied that, taking into account the extent to which the person has complied with the unpaid work requirement imposed by the first order, the effect on the person of the proposed exercise of those powers—
- (a) is no more than is required to secure his compliance with the [^{F17}child arrangements] order or any child arrangements order that has effect in its place, and
 - (b) is no more than is proportionate to the seriousness of his failures to comply with the [^{F18}provisions of the child arrangements order and with] the first order.
- (11) Where the court exercises its powers under sub-paragraph (2) by making an enforcement order in relation to a person who has failed to comply with another enforcement order—
- (a) sections 11K(4), 11L(2) to (7), 11M and 11N have effect as regards the making of the order in relation to the person as they have effect as regards the making of an enforcement order in relation to a person who has failed to comply with a [^{F19}provision of a child arrangements] order;
 - (b) this Part of this Schedule has effect in relation to the order so made as if it were an enforcement order made in respect of the failure for which the other order was made.
- (12) Sub-paragraph (2) is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to enforcement orders.

Textual Amendments

- F14** Words in Sch. A1 para. 9(1) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(2); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F15** Words in Sch. A1 para. 9(5) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(4); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F16** Words in Sch. A1 para. 9(6) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(3); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F17** Words in Sch. A1 para. 9(10)(a) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(3); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F18** Words in Sch. A1 para. 9(10)(b) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(5); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
- F19** Words in Sch. A1 para. 9(11)(a) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), Sch. 2 para. 39(2); [S.I. 2014/889](#), art. 4(f) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)

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[^{F17} Provision relating to amendment of enforcement orders

- 10 Sections 11L(2) to (7) and 11M have effect in relation to the making of an order under paragraph 6(2), 7(2) or 9(2)(a) amending an enforcement order as they have effect in relation to the making of an enforcement order; and references in sections 11L(2) to (7) and 11M to an enforcement order are to be read accordingly.]]

SCHEDULE 1

Section 15(1).

FINANCIAL PROVISION FOR CHILDREN

Orders for financial relief against parents

- 1 (1) On an application made by a parent [^{F20}, guardian or special guardian] of a child, or by any person [^{F21}who is named in a child arrangements order as a person with whom a child is to live], the court [^{F22}may make one or more of the orders mentioned in sub-paragraph (2).]
 - ^{F23}(a)
 - ^{F23}(b)
- (2) The orders referred to in sub-paragraph (1) are—
 - (a) an order requiring either or both parents of a child—
 - (i) to make to the applicant for the benefit of the child; or
 - (ii) to make to the child himself,
 such periodical payments, for such term, as may be specified in the order;
 - (b) an order requiring either or both parents of a child—
 - (i) to secure to the applicant for the benefit of the child; or
 - (ii) to secure to the child himself,
 such periodical payments, for such term, as may be so specified;
 - (c) an order requiring either or both parents of a child—
 - (i) to pay to the applicant for the benefit of the child; or
 - (ii) to pay to the child himself,
 such lump sum as may be so specified;
 - (d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property—
 - (i) to which either parent is entitled (either in possession or in reversion); and
 - (ii) which is specified in the order;
 - (e) an order requiring either or both parents of a child—
 - (i) to transfer to the applicant, for the benefit of the child; or
 - (ii) to transfer to the child himself,
 such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.
- (3) The powers conferred by this paragraph may be exercised at any time.

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- (4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.
- (5) Where a court makes an order under this paragraph—
- (a) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child concerned if he has not reached the age of eighteen;
 - (b) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.
- (6) On making, varying or discharging ^{F24}... [^{F25} a special guardianship order][^{F26}, or on making, varying or discharging provision in a child arrangements order with respect to the living arrangements of a child,] the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.
- [^{F27}(6A) For the purposes of sub-paragraph (6) provision in a child arrangements order is with respect to the living arrangements of a child if it regulates arrangements relating to—
- (a) with whom the child is to live, or
 - (b) when the child is to live with any person.]

[^{F28}(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.]

Textual Amendments

- F20** Words in Sch. 1 para. 1(1) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(a)(i) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F21** Words in Sch. 1 para. 1(1) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 40(2)(a); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F22** Words in Sch. 1 para. 1(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 113(a); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F23** Sch. 1 para. 1(1)(a)(b) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 113(b); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F24** Words in Sch. 1 para. 1(6) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 40(2)(b)(i); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F25** Words in Sch. 1 para. 1(6) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(a)(ii) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F26** Words in Sch. 1 para. 1(6) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 40(2)(b)(ii); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F27** Sch. 1 para. 1(6A) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 40(2)(c); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F28** Sch. 1 para. 1(7) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 10(2); S.I. 1991/1883, art. 3, Sch.

Commencement Information

- I1** Sch. 1 para. 1 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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Orders for financial relief for persons over eighteen

- 2 (1) If, on an application by a person who has reached the age of eighteen, it appears to the court—
- (a) that the applicant is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
 - (b) that there are special circumstances which justify the making of an order under this paragraph,
- the court may make one or both of the orders mentioned in sub-paragraph (2).
- (2) The orders are—
- (a) an order requiring either or both of the applicant’s parents to pay to the applicant such periodical payments, for such term, as may be specified in the order;
 - (b) an order requiring either or both of the applicant’s parents to pay to the applicant such lump sum as may be so specified.
- (3) An application may not be made under this paragraph by any person if, immediately before he reached the age of sixteen, a periodical payments order was in force with respect to him.
- (4) No order shall be made under this paragraph at a time when the parents of the applicant are living with each other in the same household.
- (5) An order under sub-paragraph (2)(a) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.
- (6) In sub-paragraph (3) “periodical payments order” means an order made under—
- (a) this Schedule;
 - ^{F29}(b)
 - (c) section 23 or 27 of the ^{M1}Matrimonial Causes Act 1973;
 - (d) Part I of the ^{M2}Domestic Proceedings and Magistrates’ Courts Act 1978,
 - ^{F30}(e) Part 1 or 9 of Schedule 5 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.);
 - (f) Schedule 6 to the 2004 Act (financial relief in the magistrates’ courts etc.),]
- for the making or securing of periodical payments.
- (7) The powers conferred by this paragraph shall be exercisable at any time.
- (8) Where the court makes an order under this paragraph it may from time to time while that order remains in force make a further such order.

Textual Amendments

F29 Sch. 1 para. 2(6)(b) repealed (25.07.1991) by Child Support Act 1991 (c. 48, SIF 20), s. 58(2)(14) (with saving in s. 9(2))

F30 Sch. 1 para. 2(6)(e)(f) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 78(2); S.I. 2005/3175, art. 2(1), Sch. 1

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Commencement Information

I2 Sch. 1 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M1 1973 c. 18.

M2 1978 c. 22.

Duration of orders for financial relief

- 3 (1) The term to be specified in an order for periodical payments made under paragraph 1(2)(a) or (b) in favour of a child may begin with the date of the making of an application for the order in question or any later date ^[F31] or a date ascertained in accordance with sub-paragraph (5) or (6)] but—
- (a) shall not in the first instance extend beyond the child’s seventeenth birthday unless the court thinks it right in the circumstances of the case to specify a later date; and
 - (b) shall not in any event extend beyond the child’s eighteenth birthday.
- (2) Paragraph (b) of sub-paragraph (1) shall not apply in the case of a child if it appears to the court that—
- (a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
 - (b) there are special circumstances which justify the making of an order without complying with that paragraph.
- (3) An order for periodical payments made under paragraph 1(2)(a) or 2(2)(a) shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.
- (4) Where an order is made under paragraph 1(2)(a) or (b) requiring periodical payments to be made or secured to the parent of a child, the order shall cease to have effect if —
- (a) any parent making or securing the payments; and
 - (b) any parent to whom the payments are made or secured,
- live together for a period of more than six months.
- ^[F32](5) Where—
- (a) a ^[F33] maintenance calculation] (“the ^[F34] current calculation]”) is in force with respect to a child; and
 - (b) an application is made for an order under paragraph 1(2)(a) or (b) of this Schedule for periodical payments in favour of that child—
 - (i) in accordance with section 8 of the Child Support Act 1991 ^{M3}; and
 - (ii) before the end of the period of 6 months beginning with the making of the ^[F34] current calculation],the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.
- (6) For the purposes of subsection (5) above, “the earliest permitted date” is whichever is the later of—

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- (a) the date 6 months before the application is made; or
- (b) the date on which the [^{F34}current calculation] took effect or, where successive [^{F35}maintenance calculations] have been continuously in force with respect to a child, on which the first of [^{F36}those calculations] took effect.

(7) Where—

- (a) a [^{F33}maintenance calculation] ceases to have effect [^{F37}or is cancelled] by or under any provision of the Child Support Act 1991, and
- (b) an application is made, before the end of the period of 6 months beginning with the relevant date, for an order for periodical payments under paragraph 1(2)(a) or (b) in favour of a child with respect to whom that [^{F33}maintenance calculation] was in force immediately before it ceased to have effect [^{F38}or was cancelled],

the term to be specified in any such order, or in any interim order under paragraph 9, made on that application may begin with the date on which that [^{F33}maintenance calculation] ceased to have effect [^{F39}or, as the case may be, the date with effect from which it was cancelled], or any later date.

(8) In sub-paragraph (7)(b)—

- (a) where the [^{F33}maintenance calculation] ceased to have effect, the relevant date is the date on which it so ceased; [^{F40}and
- (b) where the maintenance assessment was cancelled, the relevant date is the later of—
 - (i) the date on which the person who cancelled it did so, and
 - (ii) the date from which the cancellation first had effect.]

Textual Amendments

- F31** Words in Sch. 1 para. 3(1) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 10**
- F32** Sch. 1 para. 3(5)-(8) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 11**
- F33** Words in Sch. 1 para. 3(5)(a)(7)(8)(a) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(a) (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**
- F34** Words in Sch. 1 para. 3(5)(a)(b)(ii)(6)(b) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(b) (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**
- F35** Words in Sch. 1 para. 3(6)(b) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(c) (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**
- F36** Words in Sch. 1 para. 3(6)(b) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(2)(d) (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**
- F37** Words in Sch. 1 para. 3(7)(a) repealed 3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**
- F38** Words in Sch. 1 para. 3(7)(b) repealed (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**
- F39** Words in Sch. 1 para. 3(7) repealed (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **art. 3, 8, Sch.**
- F40** Sch. 1 para. 3(8)(b) and the preceding "and" repealed (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 85, 86(1), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **arts. 3, 8, Sch.**

Commencement Information

- I3** Sch. 1 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Marginal Citations

M3 1991 c.48.

Matters to which court is to have regard in making orders for financial relief

- 4 (1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including—
- (a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
 - (b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
 - (c) the financial needs of the child;
 - (d) the income, earning capacity (if any), property and other financial resources of the child;
 - (e) any physical or mental disability of the child;
 - (f) the manner in which the child was being, or was expected to be, educated or trained.
- (2) In deciding whether to exercise its powers under paragraph 1 against a person who is not the mother or father of the child, and if so in what manner, the court shall in addition have regard to—
- (a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;
 - (b) whether he did so knowing that the child was not his child;
 - (c) the liability of any other person to maintain the child.
- (3) Where the court makes an order under paragraph 1 against a person who is not the father of the child, it shall record in the order that the order is made on the basis that the person against whom the order is made is not the child's father.
- (4) The persons mentioned in sub-paragraph (1) are—
- (a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;
 - (b) in relation to a decision whether to exercise its powers under paragraph 2, the mother and father of the child;
 - (c) the applicant for the order;
 - (d) any other person in whose favour the court proposes to make the order.
- [^{F41}(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in sub-paragraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.]

Textual Amendments

F41 Sch. 1 para. 4(5) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, Sch. 6 para. 32(2); S.I. 2009/479, art. 6(1)(e)

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Commencement Information

I4 Sch. 1 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Provisions relating to lump sums

- 5 (1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses—
- (a) incurred in connection with the birth of the child or in maintaining the child; and
 - (b) reasonably incurred before the making of the order, to be met.
- ^{F42}(2)
- (3) The power of the court under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments by a parent shall include power to make an order under that provision for the payment of a lump sum by that parent.
- ^{F43}(4)
- (5) An order made under paragraph 1 or 2 for the payment of a lump sum may provide for the payment of that sum by instalments.
- (6) Where the court provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying—
- (a) the number of instalments payable;
 - (b) the amount of any instalment payable;
 - (c) the date on which any instalment becomes payable.
- [^{F44}(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.]

Textual Amendments

- F42** Sch. 1 para. 5(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 114](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F43** Sch. 1 para. 5(4) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 114](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F44** Sch. 1 para. 5(7) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15(1), [Sch. 4 para. 209\(3\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(r)

Commencement Information

I5 Sch. 1 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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Variation etc. of orders for periodical payments

- 6 (1) In exercising its powers under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.
- (2) The power of the court under paragraph 1 or 2 to vary an order for the making or securing of periodical payments shall include power to suspend any provision of the order temporarily and to revive any provision so suspended.
- (3) Where on an application under paragraph 1 or 2 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court may specify, [F45 except that, subject to sub-paragraph (9), the date shall not be] earlier than the date of the making of the application.
- (4) An application for the variation of an order made under paragraph 1 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of sixteen, be made by the child himself.
- (5) Where an order for the making or securing of periodical payments made under paragraph 1 ceases to have effect on the date on which the child reaches the age of sixteen, or at any time after that date but before or on the date on which he reaches the age of eighteen, the child may apply to the court which made the order for an order for its revival.
- (6) If on such an application it appears to the court that—
- (a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
 - (b) there are special circumstances which justify the making of an order under this paragraph,
- the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.
- (7) Any order which is revived by an order under sub-paragraph (5) may be varied or discharged under that provision, on the application of any person by whom or to whom payments are required to be made under the revived order.
- (8) An order for the making or securing of periodical payments made under paragraph 1 may be varied or discharged, after the death of either parent, on the application of a guardian or [F46 special guardian]of the child concerned.
- [F47(9) Where—
- (a) an order under paragraph 1(2)(a) or (b) for the making or securing of periodical payments in favour of more than one child (“the order”) is in force;
 - (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them;
 - (c) a [F48 maintenance calculation]] (“ [F49 the calculation]”) is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made; and

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- (d) an application is made, before the end of the period of 6 months beginning with the date on which [F49the calculation] was made, for the variation or discharge of the order,
- the court may, in exercise of its powers under paragraph 1 to vary or discharge the order, direct that the variation or discharge shall take effect from the date on which [F49the calculation] took effect or any later date.

Textual Amendments

F45 Words in Sch. 1 para. 6(3) substituted (5.4.1993) by S.I. 1993/623, art. 2, Sch. 1 para. 12

F46 Words in Sch. 1 para. 6(8) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 71(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

F47 Sch. 1 para. 6(9) inserted (5.4.1993) by S.I. 1993/623, art. 2, Sch. 1 para. 13

F48 Words in Sch. 1 para. 6(9)(c) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(3)(b) (with s. 83(6)); S.I. 2003/192, arts. 3, 8, Sch.

F49 Words in Sch. 1 para. 6(9) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(3)(a) (with s. 83(6)); S.I. 2003/192, arts. 3, 8, Sch.

Commencement Information

I6 Sch. 1 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

[F50Variation of orders for periodical payments etc. made by magistrates' courts

Textual Amendments

F50 Sch. 1 para. 6A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 6; S.I. 1992/455, art. 2

- ^{F51} 6A (1) Subject to [^{F52}sub-paragraph (7)], the power of [^{F53}the family] court—
- (a) under paragraph 1 or 2 to vary an order for the making of periodical payments, or
 - (b) under paragraph 5(6) to vary an order for the payment of a lump sum by instalments,
- shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under [^{F54}section 1(4) and (4A) of the Maintenance Enforcement Act 1991].

- ^{F55}(2)
- ^{F55}(3)
- ^{F55}(4)
- ^{F55}(5)

- (6) [^{F56}Subsection (6) of section 1 of the Maintenance Enforcement Act 1991] (power of court to order that account be opened) shall apply for the purposes of [^{F57}sub-paragraph (1)] as it applies for the purposes of that section.

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(7) Before varying the order by exercising one of its powers under [F58 section 1(4) and (4A) of the Maintenance Enforcement Act 1991], the court shall have regard to any representations made by the parties to the application.

F59(8)

(9) None of the powers of the court F60 ... , conferred by this paragraph shall be exercisable in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, [F61 unless at the time when the order was made the person required to make the payments was ordinarily resident in England and Wales.]

F62(10)]

Textual Amendments

- F51 Sch. 1 para. 6A inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#) , s. 6 ; S.I. 1992/455 , art. 2 .
- F52 Words in Sch. 1 para. 6A(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(2\)\(b\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F53 Words in Sch. 1 para. 6A(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(2\)\(a\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F54 Words in Sch. 1 para. 6A(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(3\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F55 Sch. 1 paras. 6A(2)-(5) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(4\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F56 Words in Sch. 1 para. 6A(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(5\)\(a\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F57 Words in Sch. 1 para. 6A(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(5\)\(b\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F58 Words in Sch. 1 para. 6A(7) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(3\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F59 Sch. 1 para. 6A(8) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(6\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F60 Words in Sch. 1 para. 6A(9) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(7\)\(a\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F61 Words in Sch. 1 para. 6A(9) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(7\)\(b\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)
- F62 Sch. 1 para. 6A(10) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 115\(4\)](#) ; S.I. 2014/954 , art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956 , arts. 3-11)

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Modifications etc. (not altering text)

- C1** Sch. 1 para. 6A excluded by 1972 c. 18 , s. 34A(1) (as inserted (1.4.1992) by 1991 c. 17 , **Sch. 1 para. 19(2)** ; S.I. 1992/455 , **art. 2**)

Variation of orders for secured periodical payments after death of parent

- 7 (1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the deceased parent.
- (2) No application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.
- (3) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.
- (4) Sub-paragraph (3) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.
- (5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 6(1) shall include the changed circumstances resulting from the death of the parent.
- [^{F63}(6) The following are to be left out of account when considering for the purposes of sub-paragraph (2) when representation was first taken out—
- (a) a grant limited to settled land or to trust property,
 - (b) any other grant that does not permit any of the estate to be distributed,
 - (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
 - (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (6A)).
- (6A) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (6), but is to be taken as dated on the date of sealing.]
- (7) In this paragraph “secured periodical payments order” means an order for secured periodical payments under paragraph 1(2)(b).

Textual Amendments

- F63** Sch. 1 para. 7(6)(6A) substituted for Sch. 1 para. 7(6) (1.10.2014) by **Inheritance and Trustees' Powers Act 2014** (c. 16), s. 12(2), **Sch. 3 para. 4(2)** (with s. 12(4)); S.I. 2014/2039, art. 2

Status: Point in time view as at 21/12/2018.

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Commencement Information

I7 Sch. 1 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Financial relief under other enactments

8 (1) This paragraph applies where a [^{F64} child arrangements order to which sub-paragraph (1A) applies][^{F65} or a special guardianship order] is made with respect to a child at a time when there is in force an order (“the financial relief order”) made under any enactment other than this Act and requiring a person to contribute to the child’s maintenance.

[^{F66}(1A) This sub-paragraph applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.]

(2) Where this paragraph applies, the court may, on the application of—

- (a) any person required by the financial relief order to contribute to the child’s maintenance; or
- (b) any person [^{F67} who is named in a child arrangements order as a person with whom the child is to live or] in whose favour ^{F68}... [^{F65} a special guardianship order] with respect to the child is in force,

make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is otherwise payable under that order.

Textual Amendments

F64 Words in Sch. 1 para. 8(1) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 40\(3\)\(a\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

F65 Words in Sch. 1 para. 8(1)(2)(b) inserted (30.12.2005) by [2002 c. 38, ss. 139, 148, Sch. 3 para. 71\(c\)](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)

F66 Sch. 1 para. 8(1A) inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 40\(3\)\(b\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

F67 Words in Sch. 1 para. 8(2)(b) inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 40\(3\)\(c\)\(i\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

F68 Words in Sch. 1 para. 8(2)(b) omitted (22.4.2014) by virtue of [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 2 para. 40\(3\)\(c\)\(ii\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Commencement Information

I8 Sch. 1 para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Interim orders

9 (1) Where an application is made under paragraph 1 or 2 the court may, at any time before it disposes of the application, make an interim order—

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- (a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit; and
 - (b) giving any direction which the court thinks fit.
- (2) An interim order made under this paragraph may provide for payments to be made from such date as the court may specify [^{F69}except that, subject to paragraph 3(5) and (6), the date shall not be] earlier than the date of the making of the application under paragraph 1 or 2.
- (3) An interim order made under this paragraph shall cease to have effect when the application is disposed of or, if earlier, on the date specified for the purposes of this paragraph in the interim order.
- (4) An interim order in which a date has been specified for the purposes of sub-paragraph (3) may be varied by substituting a later date.

Textual Amendments

F69 Words in [Sch. 1 para. 9\(2\)](#) substituted (5.4.1993) by [S.I. 1993/623, art. 2, Sch. 1 para.14](#)

Commencement Information

I9 [Sch. 1 para. 9](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Alteration of maintenance agreements

- 10 (1) In this paragraph and in paragraph 11 “maintenance agreement” means any agreement in writing made with respect to a child, whether before or after the commencement of this paragraph, which—
- (a) is or was made between the father and mother of the child; and
 - (b) contains provision with respect to the making or securing of payments, or the disposition or use of any property, for the maintenance or education of the child,
- and any such provisions are in this paragraph, and paragraph 11, referred to as “financial arrangements”.
- (2) [^{F70}Subject to sub-paragraph (2A), where] a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in England and Wales, then, either party may apply to the court for an order under this paragraph.
- [^{F71}(2A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—
- (a) the requirement as to domicile or residence in sub-paragraph (2) does not apply to the application or that part of it, but
 - (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.
- (2B) In sub-paragraph (2A), “the Maintenance Regulation ” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the

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Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

- (3) If the court to which the application is made is satisfied either—
- (a) that, by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different financial arrangements; or
 - (b) that the agreement does not contain proper financial arrangements with respect to the child,

then that court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to it to be just having regard to all the circumstances.

- (4) If the maintenance agreement is altered by an order under this paragraph, the agreement shall have effect thereafter as if the alteration had been made by agreement between the parties and for valuable consideration.

- (5) Where a court decides to make an order under this paragraph altering the maintenance agreement—

- (a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or
- (b) by increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

then, in deciding the term for which under the agreement as altered by the order the payments or (as the case may be) the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court shall apply the provisions of sub-paragraphs (1) and (2) of paragraph 3 as if the order were an order under paragraph 1(2)(a) or (b).

^{F72}(6)

- (7) For the avoidance of doubt it is hereby declared that nothing in this paragraph affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

[^{F73}(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in sub-paragraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.]

Textual Amendments

- F70** Words in Sch. 1 para. 10(2) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 12(2)(a)**
- F71** Sch. 1 para. 10(2A)(2B) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 12(2)(b)**
- F72** Sch. 1 para. 10(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 116**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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F73 Sch. 1 para. 10(8) inserted (6.4.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68, [Sch. 6 para. 32\(3\)](#); [S.I. 2009/479](#), [art. 6\(1\)\(e\)](#)

Commencement Information

I10 Sch. 1 para 10 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

- 11 (1) Where a maintenance agreement provides for the continuation, after the death of one of the parties, of payments for the maintenance of a child and that party dies domiciled in England and Wales, the surviving party or the personal representatives of the deceased party may apply to the High Court or [^{F74}the family court] for an order under paragraph 10.
- (2) If a maintenance agreement is altered by a court on an application under this paragraph, the agreement shall have effect thereafter as if the alteration had been made, immediately before the death, by agreement between the parties and for valuable consideration.
- (3) An application under this paragraph shall not, except with leave of the High Court or [^{F75}the family court], be made after the end of the period of six months beginning with the day on which representation in regard to the estate of the deceased is first taken out.
- [^{F76}(4) The following are to be left out of account when considering for the purposes of sub-paragraph (3) when representation was first taken out—
- (a) a grant limited to settled land or to trust property,
 - (b) any other grant that does not permit any of the estate to be distributed,
 - (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
 - (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (4A)).
- (4A) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (4), but is to be taken as dated on the date of sealing.]
- ^{F77}(5)
- (6) The provisions of this paragraph shall not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiry of the period of six months referred to in sub-paragraph (3) on the ground that they ought to have taken into account the possibility that a court might grant leave for an application by virtue of this paragraph to be made by the surviving party after that period.
- (7) Sub-paragraph (6) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.

Textual Amendments

F74 Words in Sch. 1 para. 11(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 117\(a\)](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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- F75** Words in Sch. 1 para. 11(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 117\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F76** Sch. 1 para. 11(4)(4A) substituted for Sch. 1 para. 11(4) (1.10.2014) by [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 3 para. 4\(3\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2
- F77** Sch. 1 para. 11(5) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 117\(c\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

- I11** Sch. 1 para 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

Enforcement of orders for maintenance

- 12 (1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made by [^{F78}the family court] under this Act shall give notice of any change of address to such person (if any) as may be specified in the order.
- (2) Any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

^{F79}(3)

Textual Amendments

- F78** Words in Sch. 1 para. 12(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 118\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F79** Sch. 1 para. 12(3) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 118\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

- I12** Sch. 1 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

Direction for settlement of instrument by conveyancing counsel

- 13 Where the High Court or [^{F80}the family court] decides to make an order under this Act for the securing of periodical payments or for the transfer or settlement of property, it may direct that the matter be referred to one of the conveyancing counsel of the court to settle a proper instrument to be executed by all necessary parties.

Textual Amendments

- F80** Words in Sch. 1 para. 13 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 119](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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Commencement Information

I13 Sch. 1 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

[^{F81} Jurisdiction in relation to matters relating to maintenance]

Textual Amendments

F81 Sch. 1 para. 14 cross-heading substituted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 3**

[^{F82}14 (1) If an application under paragraph 1 or 2, or part of such an application, relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.

(2) In sub-paragraph (1), “the Maintenance Regulation ” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Textual Amendments

F82 Sch. 1 para. 14 substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 12(3)**

Local authority contribution to child’s maintenance

15 (1) Where a child lives, or is to live, with a person as the result of a [^{F83}child arrangements order], a local authority may make contributions to that person towards the cost of the accommodation and maintenance of the child.

(2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife [^{F84}or civil partner] of a parent of the child.

Textual Amendments

F83 Words in Sch. 1 para. 15 substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 2 para. 40(4)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

F84 Words in Sch. 1 para. 15(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **s. 78(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Commencement Information

I14 Sch. 1 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Interpretation

16 (1) In this Schedule “child” includes, in any case where an application is made under paragraph 2 or 6 in relation to a person who has reached the age of eighteen, that person.

[^{F85}(2) In this Schedule, except paragraphs 2 and 15, “parent” includes—

- (a) any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family, and
- (b) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child concerned is a child of the family;

and for this purpose any reference to either parent or both parents shall be read as a reference to any parent of his and to all of his parents.]

[^{F86}(3) In this Schedule, “ [^{F87}maintenance calculation]” has the same meaning as it has in the Child Support Act 1991 by virtue of section 54 of that Act as read with any regulations in force under that section.

Textual Amendments

F85 Sch. 1 para. 16(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 78\(4\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

F86 Sch. 1 para. 16(3) inserted (5.4.1993) by S.I. 1993/623, [art. 2](#), [Sch. 1 para. 15](#)

F87 Words in Sch. 1 para. 16(3) substituted (3.3.2003 for specified purposes and otherwise prosp.) by 2000 c. 19, ss. 26, 86(1), Sch. 3 para. 10(4) (with s. 83(6)); S.I. 2003/192, [arts. 3, 8](#), Sch.

Commencement Information

I15 Sch. 1 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

SCHEDULE 2

Sections 17, 23 and 29.

[^{F88}SUPPORT FOR CHILDREN AND FAMILIES PROVIDED BY LOCAL AUTHORITIES IN ENGLAND]

Textual Amendments

F88 Sch. 2 heading substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [121](#)

Modifications etc. (not altering text)

C2 Sch. 2 modified (temp.) (12.2.2009 for E. and 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(3), 44, [Sch. 2 para. 2](#); S.I. 2009/268, [art. 3\(1\)\(b\)](#); S.I. 2010/749, [art. 2\(a\)](#)

Commencement Information

I16 Sch. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

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[^{F89}Application to local authorities in England

Textual Amendments

F89 Sch. 2 para. A1 and cross-heading inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **107**

- A1. (1) This Schedule applies only in relation to local authorities in England.
- (2) Accordingly, unless the contrary intention appears, a reference in this Schedule to a local authority means a local authority in England.]

PART I

PROVISION OF SERVICES FOR FAMILIES

Commencement Information

I17 Sch. 2 Part I wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

Identification of children in need and provision of information

- 1 (1) Every local authority shall take reasonable steps to identify the extent to which there are children in need within their area.
- (2) Every local authority shall—
- (a) publish information—
 - (i) about services provided by them under sections 17, 18, [^{F90}20 [^{F91}and 23D]] ; and
 - (ii) where they consider it appropriate, about the provision by others (including, in particular, voluntary organisations) of services which the authority have power to provide under those sections; and
 - (b) take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them.

Textual Amendments

F90 Words in Sch. 2 Pt. I para. 1(2)(a)(i) substituted (1.10.2001) by [2000 c. 35, s. 7\(4\)](#); [S.I. 2001/2191](#), **art. 2**; [S.I. 2001/2878](#), **art. 2**

F91 Words in Sch. 2 para. 1(2)(a)(i) substituted (1.4.2018) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), **Sch. 2 para. 2**; [S.I. 2018/346](#), reg. 4(aa)

Commencement Information

I18 Sch. 2 Pt. I para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

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[^{F92}Children's services plans

Textual Amendments

F92 Sch. 2 para. 1A and cross heading inserted (1.4.1996) by [S.I. 1996/785, art. 2](#)

1A ^{F93}]

Textual Amendments

F93 Sch. 2 para. 1A repealed (1.3.2005 for E. and 31.7.2008 for W.) by [Children Act 2004 \(c. 31\), s. 64, Sch. 5 Pt. 1; S.I. 2005/394, art. 2\(1\)\(i\); S.I. 2008/1904, art. 2\(b\)](#)

Maintenance of a register of disabled children

- 2 (1) Every local authority shall open and maintain a register of disabled children within their area.
- (2) The register may be kept by means of a computer.

Commencement Information

I19 Sch. 2 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Assessment of children's needs

- 3 Where it appears to a local authority that a child within their area is in need, the authority may assess his needs for the purposes of this Act at the same time as any assessment of his needs is made under—
- (a) the ^{M4}Chronically Sick and Disabled Persons Act 1970;
 - (b) [^{F94}Part IV of the Education Act 1996];
 - [^{F95}(ba) Part 3 of the Children and Families Act 2014;]
 - (c) the ^{M5}Disabled Persons (Services, Consultation and Representation) Act 1986; or
 - (d) any other enactment.

Textual Amendments

F94 Words in Sch. 2 para. 3(b) substituted (1.11.1996) by [1996 c. 56, ss. 1\(4\), 582\(1\), 583\(2\), Sch. 37, para. 92](#)

F95 Sch. 2 para. 3(ba) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 3 para. 65\(3\); S.I. 2014/889, art. 7\(a\)](#)

Commencement Information

I20 Sch. 2 Pt. I para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M4 1970 c. 44.

M5 1986 c. 33.

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Prevention of neglect and abuse

- 4 (1) Every local authority shall take reasonable steps, through the provision of services under Part III of this Act, to prevent children within their area suffering ill-treatment or neglect.
- (2) Where a local authority believe that a child who is at any time within their area—
- (a) is likely to suffer harm; but
 - (b) lives or proposes to live in the area of another local authority [^{F96}or in the area of a local authority in Wales]
- they shall inform that other local authority [^{F97}or the local authority in Wales, as the case may be].
- (3) When informing that other local authority [^{F98}or the local authority in Wales] they shall specify—
- (a) the harm that they believe he is likely to suffer; and
 - (b) (if they can) where the child lives or proposes to live.

Textual Amendments

F96 Words in Sch. 2 para. 4(2)(b) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **108(a)**

F97 Words in Sch. 2 para. 4(2) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **108(b)**

F98 Words in Sch. 2 para. 4(3) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **108(c)**

Commencement Information

I21 Sch. 2 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provision of accommodation in order to protect child

- 5 (1) Where—
- (a) it appears to a local authority that a child who is living on particular premises is suffering, or is likely to suffer, ill treatment at the hands of another person who is living on those premises; and
 - (b) that other person proposes to move from the premises,
- the authority may assist that other person to obtain alternative accommodation.
- (2) Assistance given under this paragraph may be in cash.
- (3) Subsections (7) to (9) of section 17 shall apply in relation to assistance given under this paragraph as they apply in relation to assistance given under that section.

Commencement Information

I22 Sch. 2 Pt. I para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provision for disabled children

- 6 [^{F99}(1)] Every local authority shall provide services designed—

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- (a) to minimise the effect on disabled children within their area of their disabilities; ^{F100} ...
- (b) to give such children the opportunity to lead lives which are as normal as possible ^{F101}; and
- (c) to assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring.]

^{F102}(2) The duty imposed by sub-paragraph (1)(c) shall be performed in accordance with regulations made by the ^{F103}Secretary of State].]

Textual Amendments

- F99** Sch. 2 para. 6(1): Sch. 2 para. 6 renumbered as Sch. 2 para. 6(1) (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 25(2)**, 44(4); S.I. 2010/2981, art. 4(j); S.I. 2012/1553, art. 2(d)
- F100** Word in Sch. 2 para. 6(1) repealed (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), s. 44(4), **Sch. 4**; S.I. 2010/2981, art. 4(l); S.I. 2012/1553, art. 2(e)
- F101** Sch. 2 para. 6(1)(c) and word inserted (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 25(3)**, 44(4); S.I. 2010/2981, art. 4(j); S.I. 2012/1553, art. 2(d)
- F102** Sch. 2 para. 6(2) inserted (1.9.2009 for E. for specified purposes, 26.4.2010 for W. for specified purposes, 1.4.2011 for E. in so far as not already in force, 19.6.2012 for W. in so far as not already in force) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 25(4)**, 44(4); S.I. 2009/2273, art. 2(2)(h); S.I. 2010/1329, art. 2(j); S.I. 2010/2981, art. 4(j); S.I. 2012/1553, art. 2(d)
- F103** Words in Sch. 2 para. 6(2) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **109**

Commencement Information

- I23** Sch. 2 Pt. I para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Provision to reduce need for care proceedings etc.

- 7 Every local authority shall take reasonable steps designed—
- (a) to reduce the need to bring—
 - (i) proceedings for care or supervision orders with respect to children within their area;
 - (ii) criminal proceedings against such children;
 - (iii) any family or other proceedings with respect to such children which might lead to them being placed in the authority's care; or
 - (iv) proceedings under the inherent jurisdiction of the High Court with respect to children;
 - (b) to encourage children within their area not to commit criminal offences; and
 - (c) to avoid the need for children within their area to be placed in secure accommodation ^{F104}within the meaning given in section 25 and in section 119 of the Social Services and Well-being (Wales) Act 2014].

Textual Amendments

- F104** Words in Sch. 2 para. 7(c) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **110**

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Commencement Information

I24 Sch. 2 Pt. I para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Provision for children living with their families

- 8 Every local authority shall make such provision as they consider appropriate for the following services to be available with respect to children in need within their area while they are living with their families—
- (a) advice, guidance and counselling;
 - (b) occupational, social, cultural or recreational activities;
 - (c) home help (which may include laundry facilities);
 - (d) facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under this Act or of any similar service;
 - (e) assistance to enable the child concerned and his family to have a holiday.

Commencement Information

I25 Sch. 2 Pt. I para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

^{F105}Provision for accommodated children

Textual Amendments

F105 Sch. 2 para. 8A and cross-heading inserted (28.3.2011 for W., 1.4.2011 for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 19, 44](#); [S.I. 2010/2981, art. 4\(f\)](#); [S.I. 2011/949, art. 3\(1\)\(b\)](#)

- 8A (1) Every local authority shall make provision for such services as they consider appropriate to be available with respect to accommodated children.
- (2) “Accommodated children” are those children in respect of whose accommodation the local authority have been notified under section 85 or 86 ^{F106}or under section 120 of the Social Services and Well-being (Wales) Act 2014 (assessment of children accommodated by health authorities and education authorities)].
- (3) The services shall be provided with a view to promoting contact between each accommodated child and that child's family.
- (4) The services may, in particular, include—
- (a) advice, guidance and counselling;
 - (b) services necessary to enable the child to visit, or to be visited by, members of the family;
 - (c) assistance to enable the child and members of the family to have a holiday together.
- (5) Nothing in this paragraph affects the duty imposed by paragraph 10.]

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Textual Amendments

F106 Words in Sch. 2 para. 8A(2) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **111**

Family centres

- 9 (1) Every local authority shall provide such family centres as they consider appropriate in relation to children within their area.
- (2) “Family centre” means a centre at which any of the persons mentioned in subparagraph (3) may—
- (a) attend for occupational, social, cultural or recreational activities;
 - (b) attend for advice, guidance or counselling; or
 - (c) be provided with accommodation while he is receiving advice, guidance or counselling.
- (3) The persons are—
- (a) a child;
 - (b) his parents;
 - (c) any person who is not a parent of his but who has parental responsibility for him;
 - (d) any other person who is looking after him.

Commencement Information

I26 Sch. 2 Pt. I para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

Maintenance of the family home

- 10 Every local authority shall take such steps as are reasonably practicable, where any child within their area who is in need and whom they are not looking after is living apart from his family—
- (a) to enable him to live with his family; or
 - (b) to promote contact between him and his family,
- if, in their opinion, it is necessary to do so in order to safeguard or promote his welfare.

Commencement Information

I27 Sch. 2 Pt. I para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

Duty to consider racial groups to which children in need belong

- 11 Every local authority shall, in making any arrangements—
- (a) for the provision of day care within their area; or
 - (b) designed to encourage persons to act as local authority foster parents,

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have regard to the different racial groups to which children within their area who are in need belong.

Commencement Information

I28 Sch. 2 Pt. I para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

PART II

CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES [^{F107}IN ENGLAND]

Textual Amendments

F107 Words in Sch. 2 Pt. 2 inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **112**

Regulations as to placing of children with local authority foster parents

.....

Regulations as to arrangements under section 23(2)(f)

.....

Regulations as to conditions under which child in care is allowed to live with parent, etc.

.....

^{F112} *Regulations as to conditions under which child in care is allowed to live with parent, etc*

Textual Amendments

F112 [Sch. 2 paras. 12A-12G](#) substituted for Sch. 2 paras. 12-14 (1.9.2009 for E., 26.4.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 44, **Sch. 1 para. 4**; [S.I. 2009/2273](#), art. 2(2)(b), [S.I. 2010/1329](#), art. 2(b)

12A Regulations under section 22C may, in particular, impose requirements on a local authority as to—

- (a) the making of any decision by a local authority to allow a child in their care to live with any person falling within section 22C(3) (including requirements as to those who must be consulted before the decision is made and those who must be notified when it has been made);
- (b) the supervision or medical examination of the child concerned;
- (c) the removal of the child, in such circumstances as may be prescribed, from the care of the person with whom the child has been allowed to live;
- (d) the records to be kept by local authorities.

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Regulations as to placements of a kind specified in section 22C(6)(d)

- 12B Regulations under section 22C as to placements of the kind specified in section 22C(6)(d) may, in particular, make provision as to—
- (a) the persons to be notified of any proposed arrangements;
 - (b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;
 - (c) the persons to be notified of any proposed changes in arrangements;
 - (d) the records to be kept by local authorities;
 - (e) the supervision by local authorities of any arrangements made.

Placements out of area

- 12C Regulations under section 22C may, in particular, impose requirements which a local authority must comply with—
- (a) before a child looked after by them is provided with accommodation at a place outside the area of the authority; or
 - (b) if the child's welfare requires the immediate provision of such accommodation, within such period of the accommodation being provided as may be prescribed.

Avoidance of disruption in education

- 12D (1) Regulations under section 22C may, in particular, impose requirements which a local authority must comply with before making any decision concerning a child's placement if he is in the fourth key stage.
- (2) A child is “in the fourth key stage” if he is a pupil in the fourth key stage for the purposes of Part 6 or 7 of the Education 2002 (see section 82 and 103 of that Act).

Regulations as to placing of children with local authority foster parents

- 12E Regulations under section 22C may, in particular, make provision—
- (a) with regard to the welfare of children placed with local authority foster parents;
 - (b) as to the arrangements to be made by local authorities in connection with the health and education of such children;
 - (c) as to the records to be kept by local authorities;
 - (d) for securing that where possible the local authority foster parent with whom a child is to be placed is—
 - (i) of the same religious persuasion as the child; or
 - (ii) gives an undertaking that the child will be brought up in that religious persuasion;
 - (e) for securing the children placed with local authority foster parents, and the premises in which they are accommodated, will be supervised and inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it.
- 12F (1) Regulations under section 22C may, in particular, also make provision—
- (a) for securing that a child is not placed with a local authority foster parent unless that person is for the time being approved as a local authority foster

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- parent by such local authority as may be prescribed [^{F113}in regulations made by the Secretary of State];
- (b) establishing a procedure under which any person in respect of whom a qualifying determination has been made may apply to the [^{F114}Secretary of State] for a review of that determination by a panel constituted by [^{F115}the Secretary of State].
- (2) A determination is a qualifying determination if—
- (a) it relates to the issue of whether a person should be approved, or should continue to be approved, as a local authority foster parent; and
- (b) it is of a prescribed description.
- (3) Regulations made by virtue of sub-paragraph (1)(b) may include provision as to—
- (a) the duties and powers of a panel;
- (b) the administration and procedures of a panel;
- (c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);
- (d) the payment of fees to members of a panel;
- (e) the duties of any person in connection with a review conducted under the regulations;
- (f) the monitoring of any such reviews.
- (4) Regulations made by virtue of sub-paragraph (3)(e) may impose a duty to pay to the [^{F116}Secretary of State] such sum as that national authority may determine; but such a duty may not be imposed upon a person who has applied for a review of a qualifying determination.
- (5) The [^{F117}Secretary of State] must secure that, taking one financial year with another, the aggregate of the sums which become payable to it under regulations made by virtue of sub-paragraph (4) does not exceed the cost to it of performing its independent review functions.
- (6) The [^{F118}Secretary of State] may make an arrangement with an organisation under which independent review functions are performed by the organisation on the national authority's behalf.
- (7) If the [^{F119}Secretary of State] makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by that national authority.
- (8) The arrangement may include provision for payments to be made to the organisation by the [^{F120}Secretary of State].
- (9) Payments made by the [^{F121}Secretary of State] in accordance with such provision shall be taken into account in determining (for the purpose of sub-paragraph (5)) the cost to that national authority of performing its independent review functions.

^{F122}(10)

- (11) In this paragraph—
- “ financial year ” means a period of twelve months ending with 31st March;

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“ independent review function ” means a function conferred or imposed on a national authority by regulations made by virtue of sub-paragraph (1) (b);

“ organisation ” includes [^{F123}the Welsh Ministers,] a public body and a private or voluntary organisation.

Textual Amendments

- F113** Words in Sch. 2 para. 12F(1)(a) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(a)**
- F114** Words in Sch. 2 para. 12F(1)(b) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(i)**
- F115** Words in Sch. 2 para. 12F(1)(b) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(b)**
- F116** Words in Sch. 2 para. 12F(4) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(ii)**
- F117** Words in Sch. 2 para. 12F(5) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(iii)**
- F118** Words in Sch. 2 para. 12F(6) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(iv)**
- F119** Words in Sch. 2 para. 12F(7) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(v)**
- F120** Words in Sch. 2 para. 12F(8) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(vi)**
- F121** Words in Sch. 2 para. 12F(9) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(c)(vii)**
- F122** Sch. 2 para. 12F(10) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(d)**
- F123** Words in Sch. 2 para. 12F(11) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **113(e)**

12G Regulations under section 22C may, in particular, also make provision as to the circumstances in which local authorities may make arrangements for duties imposed on them by the regulations to be discharged on their behalf.]

Promotion and maintenance of contact between child and family

- 15 (1) Where a child is being looked after by a local authority, the authority shall, unless it is not reasonably practicable or consistent with his welfare, endeavour to promote contact between the child and—
- (a) his parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him; and
 - (c) any relative, friend or other person connected with him.
- (2) Where a child is being looked after by a local authority—
- (a) the authority shall take such steps as are reasonably practicable to secure that—
 - (i) his parents; and
 - (ii) any person who is not a parent of his but who has parental responsibility for him,

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- are kept informed of where he is being accommodated; and
- (b) every such person shall secure that the authority are kept informed of his or her address.
- (3) Where a local authority (“the receiving authority”) take over the provision of accommodation for a child from another local authority [^{F124}or a local authority in Wales] (“the transferring authority”) under section 20(2)—
- (a) the receiving authority shall (where reasonably practicable) inform—
- (i) the child’s parents; and
- (ii) any person who is not a parent of his but who has parental responsibility for him;
- (b) sub-paragraph (2)(a) shall apply to the transferring authority, as well as the receiving authority, until at least one such person has been informed of the change; and
- (c) sub-paragraph (2)(b) shall not require any person to inform the receiving authority of his address until he has been so informed.
- (4) Nothing in this paragraph requires a local authority to inform any person of the whereabouts of a child if—
- (a) the child is in the care of the authority; and
- (b) the authority has reasonable cause to believe that informing the person would prejudice the child’s welfare.
- (5) Any person who fails (without reasonable excuse) to comply with sub-paragraph (2) (b) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) It shall be a defence in any proceedings under sub-paragraph (5) to prove that the defendant was residing at the same address as another person who was the child’s parent or had parental responsibility for the child and had reasonable cause to believe that the other person had informed the appropriate authority that both of them were residing at that address.

Textual Amendments

F124 Words in Sch. 2 para. 15(3) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **114**

Modifications etc. (not altering text)

C4 Sch. 2 para. 15: power to apply with modifications or exclude conferred (7.2.2004 (W.) and 7.12.2004 (E.)) by [2002 c. 38, ss. 53\(1\)\(2\), 148](#) (with [Sch. 4 paras. 1, 6-8](#)); [S.I. 2004/3203](#), **art. 2(1)(h)**; [S.I. 2004/252](#), **art. 2**

C5 Sch. 2 para. 15 excluded (30.12.2005) by: [The Adoption Agencies Regulations 2005 \(S.I. 2005/389\)](#), **reg. 45(2)(d)**; [The Adoption Agencies \(Wales\) Regulations 2005 \(S.I. 2005/1313\)](#), **reg. 46(2)(d)**

Commencement Information

I32 Sch. 2 Pt. II para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

Visits to or by children: expenses

- 16 (1) This paragraph applies where—

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- (a) a child is being looked after by a local authority; and
 - (b) the conditions mentioned in sub-paragraph (3) are satisfied.
- (2) The authority may—
- (a) make payments to—
 - (i) a parent of the child;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) any relative, friend or other person connected with him,
in respect of travelling, subsistence or other expenses incurred by that person in visiting the child; or
 - (b) make payments to the child, or to any person on his behalf, in respect of travelling, subsistence or other expenses incurred by or on behalf of the child in his visiting—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) any relative, friend or other person connected with him.
- (3) The conditions are that—
- (a) it appears to the authority that the visit in question could not otherwise be made without undue financial hardship; and
 - (b) the circumstances warrant the making of the payments.

Commencement Information

I33 Sch. 2 Pt. II para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Appointment of visitor for child who is not being visited

F125¹⁷

Textual Amendments

F125 Sch. 2 para. 17 repealed (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 16(2), 44(4), [Sch. 4](#); [S.I. 2010/2981, art. 4\(e\)\(l\)](#); [S.I. 2016/452, art. 2\(d\)](#)

Power to guarantee apprenticeship deeds etc.

- 18 (1) While a child is being looked after by a local authority, or is a person qualifying for advice and assistance, the authority may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship which he enters into.
- (2) Where a local authority have undertaken any such obligation under any deed or articles they may at any time (whether or not they are still looking after the person concerned) undertake the like obligation under any supplemental deed or articles.

Status: Point in time view as at 21/12/2018.

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Commencement Information

I34 Sch. 2 Pt. II para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Arrangements to assist children to live abroad

- 19 (1) A local authority may only arrange for, or assist in arranging for, any child in their care to live outside England and Wales with the approval of the court.
- (2) A local authority may, with the approval of every person who has parental responsibility for the child arrange for, or assist in arranging for, any other child looked after by them to live outside England and Wales.
- (3) The court shall not give its approval under sub-paragraph (1) unless it is satisfied that—
- (a) living outside England and Wales would be in the child’s best interests;
 - (b) suitable arrangements have been, or will be, made for his reception and welfare in the country in which he will live;
 - (c) the child has consented to living in that country; and
 - (d) every person who has parental responsibility for the child has consented to his living in that country.
- (4) Where the court is satisfied that the child does not have sufficient understanding to give or withhold his consent, it may disregard sub-paragraph (3)(c) and give its approval if the child is to live in the country concerned with a parent, guardian, ^{F126}special guardian,] or other suitable person.
- (5) Where a person whose consent is required by sub-paragraph (3)(d) fails to give his consent, the court may disregard that provision and give its approval if it is satisfied that that person—
- (a) cannot be found;
 - (b) is incapable of consenting; or
 - (c) is withholding his consent unreasonably.
- (6) ^{F127}Section 85 of the Adoption and Children Act 2002 (which imposes restrictions on taking children out of the United Kingdom)] shall not apply in the case of any child who is to live outside England and Wales with the approval of the court given under this paragraph.
- (7) Where a court decides to give its approval under this paragraph it may order that its decision is not to have effect during the appeal period.
- (8) In sub-paragraph (7) “the appeal period” means—
- (a) where an appeal is made against the decision, the period between the making of the decision and the determination of the appeal; and
 - (b) otherwise, the period during which an appeal may be made against the decision.
- ^{F128}(9) This paragraph does not apply ^{F129}—
- (a) to a local authority placing a child in secure accommodation in Scotland under section 25, or
 - (b)] to a local authority placing a child for adoption with prospective adopters.]

Status: Point in time view as at 21/12/2018.

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Textual Amendments

- F126** Words in Sch. 2 para. 19(4) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F127** Words in Sch. 2 para. 19(6) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72 (b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F128** Sch. 2 para. 19(9) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F129** Words in Sch. 2 para. 19(9) inserted (27.4.2017) by Children and Social Work Act 2017 (c. 16), s. 70(1) (a), **Sch. 1 para. 3**

Commencement Information

- I35** Sch. 2 Pt. II para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F¹³⁰ Preparation for ceasing to be looked after

Textual Amendments

- F130** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

- F131** 19A It is the duty of the local authority looking after a child to advise, assist and befriend him with a view to promoting his welfare when they have ceased to look after him.

Textual Amendments

- F131** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**

- F132** 19B(1) A local authority shall have the following additional functions in relation to an eligible child whom they are looking after.
- (2) In sub-paragraph (1) “ eligible child ” means, subject to sub-paragraph (3), a child who—
- (a) is aged sixteen or seventeen; and
 - (b) has been looked after by a local authority [^{F133}or by a local authority in Wales] for a prescribed period, or periods amounting in all to a prescribed period, which began after he reached a prescribed age and ended after he reached the age of sixteen.
- (3) The [^{F134}Secretary of State] may prescribe—
- (a) additional categories of eligible children; and
 - (b) categories of children who are not to be eligible children despite falling within sub-paragraph (2).
- (4) For each eligible child, the local authority shall carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Act—
- (a) while they are still looking after him; and
 - (b) after they cease to look after him,

Status: Point in time view as at 21/12/2018.

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and shall then prepare a pathway plan for him.

- (5) The local authority shall keep the pathway plan under regular review.
- (6) Any such review may be carried out at the same time as a review of the child's case carried out by virtue of section 26.
- (7) The [^{F135}Secretary of State] may by regulations make provision as to assessments for the purposes of sub-paragraph (4).
- (8) The regulations may in particular provide for the matters set out in section 23B(6).

Textual Amendments

- F132** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F133** Words in Sch. 2 para. 19B(2)(b) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 115(a)
- F134** Words in Sch. 2 para. 19B(3) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 115(b)
- F135** Words in Sch. 2 para. 19B(7) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 115(c)

Modifications etc. (not altering text)

- C6** Sch. 2 pt. II para. 19B(2) restricted (W.) (1.10.2001) by S.I. 2001/2189, reg. 3(2)

[^{F136}Preparation for ceasing to be looked after: staying put arrangements

Textual Amendments

- F136** S. 19BA and cross-heading inserted (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 98(3), 139(6); S.I. 2014/889, art. 5(e)

- 19BA (1) This paragraph applies in relation to an eligible child (within the meaning of paragraph 19B) who has been placed by a local authority ^{F137}... with a local authority foster parent.
- (2) When carrying out the assessment of the child's needs in accordance with paragraph 19B(4), the local authority must determine whether it would be appropriate to provide advice, assistance and support under this Act in order to facilitate a staying put arrangement, and with a view to maintaining such an arrangement, after the local authority cease to look after him or her.
 - (3) The local authority must provide advice, assistance and support under this Act in order to facilitate a staying put arrangement if—
 - (a) the local authority determine under sub-paragraph (2) that it would be appropriate to do so, and
 - (b) the eligible child and the local authority foster parent wish to make a staying put arrangement.
 - (4) In this paragraph, “ staying put arrangement ” has the meaning given by section 23CZA.]

Status: Point in time view as at 21/12/2018.

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Textual Amendments

F137 Words in Sch. 2 para. 19BA(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **116**

F138 19C A local authority shall arrange for each child whom they are looking after who is an eligible child for the purposes of paragraph 19B to have a personal adviser.]

Textual Amendments

F138 Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by [2000 c. 35, s. 1](#); [S.I. 2001/2191, art. 2](#); [S.I. 2001/2878, art. 2](#)

Death of children being looked after by local authorities

- 20 (1) If a child who is being looked after by a local authority dies, the authority—
- [**F139**(a) shall notify the Secretary of State and Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;]
 - (b) shall, so far as is reasonably practicable, notify the child’s parents and every person who is not a parent of his but who has parental responsibility for him;
 - (c) may, with the consent (so far as it is reasonably practicable to obtain it) of every person who has parental responsibility for the child, arrange for the child’s body to be buried or cremated; and
 - (d) may, if the conditions mentioned in sub-paragraph (2) are satisfied, make payments to any person who has parental responsibility for the child, or any relative, friend or other person connected with the child, in respect of travelling, subsistence or other expenses incurred by that person in attending the child’s funeral.
- (2) The conditions are that—
- (a) it appears to the authority that the person concerned could not otherwise attend the child’s funeral without undue financial hardship; and
 - (b) that the circumstances warrant the making of the payments.
- (3) Sub-paragraph (1) does not authorise cremation where it does not accord with the practice of the child’s religious persuasion.
- (4) Where a local authority have exercised their power under sub-paragraph (1)(c) with respect to a child who was under sixteen when he died, they may recover from any parent of the child any expenses incurred by them.
- (5) Any sums so recoverable shall, without prejudice to any other method of recovery, be recoverable summarily as a civil debt.
- (6) Nothing in this paragraph affects any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

Textual Amendments

F139 Sch. 2 para. 20(1)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **117**

Status: Point in time view as at 21/12/2018.

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Commencement Information

I36 Sch. 2 Pt. II para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

PART III

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES [^{F140}IN ENGLAND]

Textual Amendments

F140 Words in Sch. 2 Pt. 3 heading inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\), regs. 2\(1\), 118](#)

Modifications etc. (not altering text)

C7 Sch. 2 Pt. III modified (30.12.2005) by [2002 c. 38, ss. 53\(4\)-\(6\), 148](#) (with [Sch. 4 paras. 1, 6-8](#)); [S.I. 2005/2213, {art. 2\(c\)}](#)

Liability to contribute

- 21 (1) Where a local authority are looking after a child (other than in the cases mentioned in sub-paragraph (7)) they shall consider whether they should recover contributions towards the child's maintenance from any person liable to contribute ("a contributor").
- (2) An authority may only recover contributions from a contributor if they consider it reasonable to do so.
- (3) The persons liable to contribute are—
- (a) where the child is under sixteen, each of his parents;
 - (b) where he has reached the age of sixteen, the child himself.
- (4) A parent is not liable to contribute during any period when he is in receipt [^{F141} of universal credit (except in such circumstances as may be prescribed),] of income support [^{F142} under][^{F143} Part VII of the Social Security Contributions and Benefits Act 1992,][^{F144} of any element of child tax credit other than the family element, of working tax credit][^{F145} [^{F146} of an income-based jobseeker's allowance or of an income-related employment and support allowance]].
- (5) A person is not liable to contribute towards the maintenance of a child in the care of a local authority in respect of any period during which the child is ^{F147}[living with, under arrangements made by the authority in accordance with section 22C], a parent of his.
- (6) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Part of this Schedule.
- (7) The cases are where the child is looked after by a local authority under—
- (a) section 21;
 - (b) an interim care order;
 - (c) [^{F148} section 92 of the Powers of Criminal Courts (Sentencing) Act 2000].

Status: Point in time view as at 21/12/2018.

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Textual Amendments

- F141** Words in Sch. 2 para. 21(4) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 2 para. 1\(d\)](#); S.I. 2013/983, [art. 3\(1\)\(b\)\(i\)](#)
- F142** Words in Sch. 2 para. 21(4) substituted (6.4.2003) by [2002 c. 21](#), ss. 47, 61, [Sch. 3 para. 20\(a\)](#); S.I. 2003/962, [art. 2\(3\)\(d\)\(iii\)](#) (subject to transitional savings and provisions in arts. 3 and 4)
- F143** Words in Sch. 2 Pt. III para. 21(4) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), ss. 4, 7(2), [Sch. 2 para. 108\(c\)](#)
- F144** Words in Sch. 2 para. 21(4) inserted (6.4.2003) by [2002 c. 21](#), ss. 47, 61, [Sch. 3 para. 20\(b\)](#); S.I. 2003/962, [art. 2\(3\)\(d\)\(iii\)](#) (subject to transitional provisions and savings in arts. 3 and 4)
- F145** Words in Sch. 2 para. 21(4) added (7.10.1996) by [1995 c. 18](#), s. 41(4), [Sch. 2 para. 19\(5\)](#); S.I. 1996/2208, [art. 2](#)
- F146** Words in Sch. 2 para. 21(4) substituted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 28, 70, [Sch. 3 para. 6\(6\)](#); S.I. 2008/787, [art. 2\(4\)\(f\)](#)
- F147** Words in Sch. 2 para. 21(5) substituted (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), s. 44(4), [Sch. 1 para. 5](#); S.I. 2010/2981, [art. 4\(a\)](#); S.I. 2016/452, [art. 2\(b\)](#)
- F148** Words in Sch. 2 Pt. III para. 21(7)(c) substituted (25.8.2000) by [2000 c. 6](#), ss. 165(1), 168(1), [Sch. 9 para. 130](#)

Modifications etc. (not altering text)

- C8** Sch. 2 para. 21: power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by [2002 c. 38](#), ss. 53(2)(b), 148 (with [Sch. 4 paras. 1, 6-8](#)); S.I. 2004/252, [art. 2\(b\)](#); S.I. 2004/3203, [art. 2\(1\)\(h\)](#)
- C9** Sch. 2 para. 21 excluded (30.12.2005) by: [The Adoption Agencies Regulations 2005 \(S.I. 2005/389\)](#), [reg. 45\(2\)\(d\)](#); [The Adoption Agencies \(Wales\) Regulations 2005 \(S.I. 2005/1313\)](#), [reg. 46\(2\)\(d\)](#)
- C10** Sch. 2 para. 21 excluded (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Children Act 1989\) \(Children Remanded to Youth Detention Accommodation\) Regulations 2012 \(S.I. 2012/2813\)](#), regs. 1(1), [2\(d\)](#), 5

Commencement Information

- I37** Sch. 2 Pt. III para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

Agreed contributions

- 22 (1) Contributions towards a child's maintenance may only be recovered if the local authority have served a notice ("a contribution notice") on the contributor specifying—
- (a) the weekly sum which they consider that he should contribute; and
 - (b) arrangements for payment.
- (2) The contribution notice must be in writing and dated.
- (3) Arrangements for payment shall, in particular, include—
- (a) the date on which liability to contribute begins (which must not be earlier than the date of the notice);
 - (b) the date on which liability under the notice will end (if the child has not before that date ceased to be looked after by the authority); and
 - (c) the date on which the first payment is to be made.
- (4) The authority may specify in a contribution notice a weekly sum which is a standard contribution determined by them for all children looked after by them.

Status: Point in time view as at 21/12/2018.

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- (5) The authority may not specify in a contribution notice a weekly sum greater than that which they consider—
- (a) they would normally be prepared to pay if they had placed a similar child with local authority foster parents; and
 - (b) it is reasonably practicable for the contributor to pay (having regard to his means).
- (6) An authority may at any time withdraw a contribution notice (without prejudice to their power to serve another).
- (7) Where the authority and the contributor agree—
- (a) the sum which the contributor is to contribute; and
 - (b) arrangements for payment,
- (whether as specified in the contribution notice or otherwise) and the contributor notifies the authority in writing that he so agrees, the authority may recover summarily as a civil debt any contribution which is overdue and unpaid.
- (8) A contributor may, by serving a notice in writing on the authority, withdraw his agreement in relation to any period of liability falling after the date of service of the notice.
- (9) Sub-paragraph (7) is without prejudice to any other method of recovery.

Commencement Information

I38 Sch. 2 Pt. III para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Contribution orders

- 23 (1) Where a contributor has been served with a contribution notice and has—
- (a) failed to reach any agreement with the local authority as mentioned in paragraph 22(7) within the period of one month beginning with the day on which the contribution notice was served; or
 - (b) served a notice under paragraph 22(8) withdrawing his agreement,
- the authority may apply to the court for an order under this paragraph.
- (2) On such an application the court may make an order (“a contribution order”) requiring the contributor to contribute a weekly sum towards the child’s maintenance in accordance with arrangements for payment specified by the court.
- (3) A contribution order—
- (a) shall not specify a weekly sum greater than that specified in the contribution notice; and
 - (b) shall be made with due regard to the contributor’s means.
- (4) A contribution order shall not—
- (a) take effect before the date specified in the contribution notice; or
 - (b) have effect while the contributor is not liable to contribute (by virtue of paragraph 21); or
 - (c) remain in force after the child has ceased to be looked after by the authority who obtained the order.

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- (5) An authority may not apply to the court under sub-paragraph (1) in relation to a contribution notice which they have withdrawn.
- (6) Where—
 - (a) a contribution order is in force;
 - (b) the authority serve another contribution notice; and
 - (c) the contributor and the authority reach an agreement under paragraph 22(7) in respect of that other contribution notice,the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect.
- (7) Where an agreement is reached under sub-paragraph (6) the authority shall notify the court—
 - (a) of the agreement; and
 - (b) of the date on which it took effect.
- (8) A contribution order may be varied or revoked on the application of the contributor or the authority.
- (9) In proceedings for the variation of a contribution order, the authority shall specify—
 - (a) the weekly sum which, having regard to paragraph 22, they propose that the contributor should contribute under the order as varied; and
 - (b) the proposed arrangements for payment.
- (10) Where a contribution order is varied, the order—
 - (a) shall not specify a weekly sum greater than that specified by the authority in the proceedings for variation; and
 - (b) shall be made with due regard to the contributor’s means.
- (11) An appeal shall lie in accordance with rules of court from any order made under this paragraph.

Commencement Information

I39 Sch. 2 Pt. III para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Enforcement of contribution orders etc.

24 ^{F149}(1)

- (2) Where a contributor has agreed, or has been ordered, to make contributions to a local authority, any other local authority within whose area the contributor is for the time being living may—
 - (a) at the request of the local authority who served the contribution notice; and
 - (b) subject to agreement as to any sum to be deducted in respect of services rendered,collect from the contributor any contributions due on behalf of the authority who served the notice.
- (3) In sub-paragraph (2) the reference to any other local authority includes a reference to—

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- [^{F150}(aa) a local authority in Wales;]
- (a) a local authority within the meaning of section 1(2) of the ^{M6}Social Work (Scotland) Act 1968; and
- (b) a Health and Social Services Board established under Article 16 of the ^{M7}Health and Personal Social Services (Northern Ireland) Order 1972.
- (4) The power to collect sums under sub-paragraph (2) includes the power to—
- (a) receive and give a discharge for any contributions due; and
- (b) (if necessary) enforce payment of any contributions, even though those contributions may have fallen due at a time when the contributor was living elsewhere.
- (5) Any contribution collected under sub-paragraph (2) shall be paid (subject to any agreed deduction) to the local authority who served the contribution notice.
- (6) In any proceedings under this paragraph, a document which purports to be—
- (a) a copy of an order made by a court under or by virtue of paragraph 23; and
- (b) certified as a true copy by the [^{F151}[^{F152}designated officer for]] the court, shall be evidence of the order.
- (7) In any proceedings under this paragraph, a certificate which—
- (a) purports to be signed by the clerk or some other duly authorised officer of the local authority who obtained the contribution order; and
- (b) states that any sum due to the authority under the order is overdue and unpaid, shall be evidence that the sum is overdue and unpaid.

Textual Amendments

- F149** Sch. 2 para. 24(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 120](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F150** Sch. 2 para. 24(3)(aa) inserted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [119](#)
- F151** Words in Sch. 2 para. 24(6) substituted (1.4.2001) by [1999 c. 22](#), s. 90, [Sch. 13 para. 162](#) (with s. 107, [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916](#), art. 2(a)(ii)
- F152** Words in Sch. 2 para. 24(6) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 190(1), [Sch. 8 para. 340](#); [S.I. 2005/910](#), art. 3(y)

Commencement Information

- I40** Sch. 2 Pt. III para. 24 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), art. 3(2)

Marginal Citations

- M6** [1968 c. 49](#).
- M7** [S.I. 1972/1265 \(N.I.14\)](#).

Regulations

- 25 The [^{F153}Secretary of State] may make regulations—
- (a) as to the considerations which a local authority must take into account in deciding—

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- (i) whether it is reasonable to recover contributions; and
- (ii) what the arrangements for payment should be;
- (b) as to the procedures [^{F154}they] must follow in reaching agreements with—
 - (i) contributors (under paragraphs 22 and 23); and
 - [^{F155}(ii) any other local authority under paragraph 24(2).]

Textual Amendments

- F153** Words in Sch. 2 para. 25 substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **120(a)**
- F154** Words in Sch. 2 para. 25(b) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **120(b)**
- F155** Sch. 2 para. 25(b)(ii) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **120(c)**

Commencement Information

- I41** Sch. 2 Pt. III para. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

SCHEDULE 3

Sections 35 and 36.

SUPERVISION ORDERS

PART I

GENERAL

Meaning of “responsible person”

- 1 In this Schedule, “the responsible person”, in relation to a supervised child, means—
- (a) any person who has parental responsibility for the child; and
 - (b) any other person with whom the child is living.

Commencement Information

- I42** Sch. 3 Pt. I para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

Power of supervisor to give directions to supervised child

- 2 (1) A supervision order may require the supervised child to comply with any directions given from time to time by the supervisor which require him to do all or any of the following things—
- (a) to live at a place or places specified in the directions for a period or periods so specified;
 - (b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;

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- (c) to participate in activities specified in the directions on a day or days so specified.
- (2) It shall be for the supervisor to decide whether, and to what extent, he exercises his power to give directions and to decide the form of any directions which he gives.
- (3) Sub-paragraph (1) does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment (which are matters dealt with in paragraphs 4 and 5).

Commencement Information

I43 Sch. 3 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Imposition of obligations on responsible person

- 3 (1) With the consent of any responsible person, a supervision order may include a requirement—
 - (a) that he take all reasonable steps to ensure that the supervised child complies with any direction given by the supervisor under paragraph 2;
 - (b) that he take all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 4 or 5;
 - (c) that he comply with any directions given by the supervisor requiring him to attend at a place specified in the directions for the purpose of taking part in activities so specified.
- (2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is required to attend with him.
- (3) A supervision order may require any person who is a responsible person in relation to the supervised child to keep the supervisor informed of his address, if it differs from the child's.

Commencement Information

I44 Sch. 3 Pt. I para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Psychiatric and medical examinations

- 4 (1) A supervision order may require the supervised child—
 - (a) to submit to a medical or psychiatric examination; or
 - (b) to submit to any such examination from time to time as directed by the supervisor.
- (2) Any such examination shall be required to be conducted—
 - (a) by, or under the direction of, such registered medical practitioner as may be specified in the order;
 - (b) at a place specified in the order and at which the supervised child is to attend as a non-resident patient; or
 - (c) at—

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- (i) a health service hospital; or
 - (ii) in the case of a psychiatric examination, a hospital [^{F156}, independent hospital or care home],
at which the supervised child is, or is to attend as, a resident patient.
- (3) A requirement of a kind mentioned in sub-paragraph (2)(c) shall not be included unless the court is satisfied, on the evidence of a registered medical practitioner, that—
- (a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and
 - (b) a period as a resident patient is necessary if the examination is to be carried out properly.
- (4) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied that—
- (a) where the child has sufficient understanding to make an informed decision, he consents to its inclusion; and
 - (b) satisfactory arrangements have been, or can be, made for the examination.

Textual Amendments

F156 Words in Sch. 3 para. 4(2)(c)(ii) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(24); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I45 Sch. 3 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Psychiatric and medical treatment

- 5 (1) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the ^{M8}Mental Health Act 1983, that the mental condition of the supervised child—
- (a) is such as requires, and may be susceptible to, treatment; but
 - (b) is not such as to warrant his detention in pursuance of a hospital order under Part III of that Act,
- the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.
- (2) The treatment specified in accordance with sub-paragraph (1) must be—
- (a) by, or under the direction of, such registered medical practitioner as may be specified in the order;
 - (b) as a non-resident patient at such a place as may be so specified; or
 - (c) as a resident patient in a hospital [^{F157}, independent hospital or care home].
- (3) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a registered medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court

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may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

- (4) The treatment specified in accordance with sub-paragraph (3) must be—
- (a) by, or under the direction of, such registered medical practitioner as may be specified in the order;
 - (b) as a non-resident patient at such place as may be so specified; or
 - (c) as a resident patient in a health service hospital.
- (5) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied—
- (a) where the child has sufficient understanding to make an informed decision, that he consents to its inclusion; and
 - (b) that satisfactory arrangements have been, or can be, made for the treatment.
- (6) If a medical practitioner by whom or under whose direction a supervised person is being treated in pursuance of a requirement included in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that—
- (a) the treatment should be continued beyond the period specified in the order;
 - (b) the supervised child needs different treatment;
 - (c) he is not susceptible to treatment; or
 - (d) he does not require further treatment,
- the practitioner shall make a report in writing to that effect to the supervisor.
- (7) On receiving a report under this paragraph the supervisor shall refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

Textual Amendments

F157 Words in [Sch. 3 para. 5\(2\)\(c\)](#) substituted (1.4.2002) by [2000 c. 14, s. 116, Sch. 4 para. 14\(24\)](#); [S.I. 2001/4150, art. 3\(3\)\(a\)](#) (subject to transitional provision in [art. 4](#) of the commencing S.I. and to the amendment of [art. 3](#) by [S.I. 2002/1493, art. 6](#)); [S.I. 2002/920, art. 3\(3\)\(d\)](#) (with [art. 3\(4\)-\(10\)](#) and transitional provisions in [Schs. 1-3](#))

Commencement Information

I46 [Sch. 3 Pt. I para. 5](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M8 [1983 c. 20](#).

PART II

MISCELLANEOUS

Commencement Information

I47 [Sch. 3 Pt. II](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Status: Point in time view as at 21/12/2018.

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Life of supervision order

- 6 (1) Subject to sub-paragraph (2) and section 91, a supervision order shall cease to have effect at the end of the period of one year beginning with the date on which it was made.
- (2) A supervision order shall also cease to have effect if an event mentioned in section 25(1)(a) or (b) of the ^{M9}Child Abduction and Custody Act 1985 (termination of existing orders) occurs with respect to the child.
- (3) Where the supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as it may specify.
- (4) A supervision order may not be extended so as to run beyond the end of the period of three years beginning with the date on which it was made.

Commencement Information

I48 Sch. 3 Pt. II para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M9 1985 c. 60.

Limited life of directions

F158-7

Textual Amendments

F158 Sch. 3 para. 7 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 27, Sch. 20; S.I. 1991/1883, art. 3, Sch.

Commencement Information

I49 Sch. 3 Pt. II para. 7 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Information to be given to supervisor etc.

- 8 (1) A supervision order may require the supervised child—
- (a) to keep the supervisor informed of any change in his address; and
 - (b) to allow the supervisor to visit him at the place where he is living.
- (2) The responsible person in relation to any child with respect to whom a supervision order is made shall—
- (a) if asked by the supervisor, inform him of the child's address (if it is known to him); and
 - (b) if he is living with the child, allow the supervisor reasonable contact with the child.

Commencement Information

I50 Sch. 3 Pt. II para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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Selection of supervisor

- 9 (1) A supervision order shall not designate a local authority as the supervisor unless—
 - (a) the authority agree; or
 - (b) the supervised child lives or will live within their area.

F159 (2)

F159 (3)

F159 (4)

F159 (5)

Textual Amendments
F159 Sch. 3 Pt. II para. 9(2)-(5) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 para. 96, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

Commencement Information
I51 Sch. 3 Pt. II para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Effect of supervision order on earlier orders

- 10 The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which—
 - (a) was made with respect to that child; and
 - (b) would otherwise continue in force.

Commencement Information
I52 Sch. 3 Pt. II para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Local authority functions and expenditure

- 11 (1) The Secretary of State may make regulations with respect to the exercise by a local authority of their functions where a child has been placed under their supervision by a supervision order.
- (2) Where a supervision order requires compliance with directions given by virtue of this section, any expenditure incurred by the supervisor for the purposes of the directions shall be defrayed by the local authority designated in the order.

Commencement Information
I53 Sch. 3 Pt. II para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: Point in time view as at 21/12/2018.

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PART III

EDUCATION SUPERVISION ORDERS

Effect of orders

- 12 (1) Where an education supervision order is in force with respect to a child, it shall be the duty of the supervisor—
- (a) to advise, assist and befriend, and give directions to—
 - (i) the supervised child; and
 - (ii) his parents,in such a way as will, in the opinion of the supervisor, secure that he is properly educated;
 - (b) where any such directions given to—
 - (i) the supervised child; or
 - (ii) a parent of his,have not been complied with, to consider what further steps to take in the exercise of the supervisor’s powers under this Act.
- (2) Before giving any directions under sub-paragraph (1) the supervisor shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child; and
 - (b) his parents,
- including, in particular, their wishes as to the place at which the child should be educated.
- (3) When settling the terms of any such directions, the supervisor shall give due consideration—
- (a) having regard to the child’s age and understanding, to such wishes and feelings of his as the supervisor has been able to ascertain; and
 - (b) to such wishes and feelings of the child’s parents as he has been able to ascertain.
- (4) Directions may be given under this paragraph at any time while the education supervision order is in force.

Commencement Information

I54 Sch. 3 Pt. III para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 13 (1) Where an education supervision order is in force with respect to a child, the duties of the child’s parents under [F160]sections 7 and 444 of the Education Act 1996 (duties to secure education of children and] to secure regular attendance of registered pupils shall be superseded by their duty to comply with any directions in force under the education supervision order.
- (2) Where an education supervision order is made with respect to a child—
- (a) any school attendance order—
 - (i) made under [F161]section 437 of the Education Act 1996] with respect to the child; and

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- (ii) in force immediately before the making of the education supervision order,
- shall cease to have effect; and
- (b) while the education supervision order remains in force, the following provisions shall not apply with respect to the child—
- (i) ^{F162}section 437] of that Act (school attendance orders);
 - (ii) ^{F163}section 9 of that Act] (pupils to be educated in accordance with wishes of their parents);
 - (iii) ^{F164}sections 411 and 423 of that Act] (parental preference and appeals against admission decisions);
- ^{F165}(c) a youth rehabilitation order made under Part 1 of the Criminal Justice and Immigration Act 2008 with respect to the child, while the education supervision order is in force, may not include an education requirement (within the meaning of that Part);]
- (d) any education requirement of a kind mentioned in paragraph (c), which was in force with respect to the child immediately before the making of the education supervision order, shall cease to have effect.

Textual Amendments

- F160** Words in Sch. 3 Pt. III para. 13(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I, para. 93(2)(a)(with s. 1(4), Sch. 39 paras. 30, 39)
- F161** Words in Sch. 3 Pt. III para. 13(2)(a)(i) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37, Pt. I para. 93(2)(b)(i)(with s. 1(4), Sch. 39 paras. 30, 39)
- F162** Words in Sch. 3 Pt. III para. 13(2)(b)(i) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 93(2)(b)(ii)(with s. 1(4), Sch. 39 paras. 30, 39)
- F163** Words in Sch. 3 Pt. III para. 13(2)(b)(ii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 para. 93(2)(b)(iii)(with s. 1(4), Sch. 39, paras. 30, 39)
- F164** Words in Sch. 3 Pt. III para. 13(2)(b)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37, para. 93(2)(b)(iv)(with s. 1(4), Sch. 39 paras. 30, 39)
- F165** Sch. 3 para. 13(2)(c) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, Sch. 4 para. 37(2) (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, art. 2(p)(v)

Commencement Information

- I55** Sch. 3 Pt. III para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Effect where child also subject to supervision order

- 14 (1) This paragraph applies where an education supervision order and a supervision order, or ^{F166}youth rehabilitation order (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008)], are in force at the same time with respect to the same child.
- (2) Any failure to comply with a direction given by the supervisor under the education supervision order shall be disregarded if it would not have been reasonably practicable to comply with it without failing to comply with a direction ^{F167}or instruction] given under the other order.

Status: Point in time view as at 21/12/2018.

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Textual Amendments

- F166** Words in Sch. 3 para. 14(1) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, Sch. 4 para. 37(3)(a) (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, art. 2(p)(v)
- F167** Words in Sch. 3 para. 14(2) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, Sch. 4 para. 37(3)(b) (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, art. 2(p)(v)

Commencement Information

- I56** Sch. 3 Pt. III para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Duration of orders

- 15 (1) An education supervision order shall have effect for a period of one year, beginning with the date on which it is made.
- (2) An education supervision order shall not expire if, before it would otherwise have expired, the court has (on the application of the authority in whose favour the order was made) extended the period during which it is in force.
- (3) Such an application may not be made earlier than three months before the date on which the order would otherwise expire.
- (4) The period during which an education supervision order is in force may be extended under sub-paragraph (2) on more than one occasion.
- (5) No one extension may be for a period of more than three years.
- (6) An education supervision order shall cease to have effect on—
- (a) the child's ceasing to be of compulsory school age; or
 - (b) the making of a care order with respect to the child;
- and sub-paragraphs (1) to (4) are subject to this sub-paragraph.

Commencement Information

- I57** Sch. 3 Pt. III para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Information to be given to supervisor etc.

- 16 (1) An education supervision order may require the child—
- (a) to keep the supervisor informed of any change in his address; and
 - (b) to allow the supervisor to visit him at the place where he is living.
- (2) A person who is the parent of a child with respect to whom an education supervision order has been made shall—
- (a) if asked by the supervisor, inform him of the child's address (if it is known to him); and
 - (b) if he is living with the child, allow the supervisor reasonable contact with the child.

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Commencement Information

I58 Sch. 3 Pt. III para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Discharge of orders

- 17 (1) The court may discharge any education supervision order on the application of—
- (a) the child concerned;
 - (b) a parent of his; or
 - (c) [^{F168}the local authority designated in the order].
- (2) On discharging an education supervision order, the court may direct the local authority within whose area the child lives, or will live, to investigate the circumstances of the child.

Textual Amendments

F168 Words in Sch. 3 para. 17(1)(c) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 37(14)(a)**

Commencement Information

I59 Sch. 3 Pt. III para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Offences

- 18 (1) If a parent of a child with respect to whom an education supervision order is in force persistently fails to comply with a direction given under the order he shall be guilty of an offence.
- (2) It shall be a defence for any person charged with such an offence to prove that—
- (a) he took all reasonable steps to ensure that the direction was complied with;
 - (b) the direction was unreasonable; or
 - (c) he had complied with—
 - (i) a requirement included in a supervision order made with respect to the child; or
 - (ii) directions given under such a requirement,
 and that it was not reasonably practicable to comply both with the direction and with the requirement or directions mentioned in this paragraph.
- (3) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I60 Sch. 3 Pt. III para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Persistent failure of child to comply with directions

- 19 (1) Where a child with respect to whom an education supervision order is in force persistently fails to comply with any direction given under the order, [^{F169}the local authority designated in the order shall notify the appropriate local authority, if different].
- (2) Where a local authority have been notified under sub-paragraph (1) they shall investigate the circumstances of the child.
- (3) In this paragraph “the appropriate local authority” has the same meaning as in section 36.

Textual Amendments

F169 Words in Sch. 3 para. 19(1) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), Sch. 2 para. 37(14)(b)

Commencement Information

I61 Sch. 3 Pt. III para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Miscellaneous

- 20 The Secretary of State may by regulations make provision modifying, or displacing, the provisions of any enactment about education in relation to any child with respect to whom an education supervision order is in force to such extent as appears to the Secretary of State to be necessary or expedient in consequence of the provision made by this Act with respect to such orders.

Commencement Information

I62 Sch. 3 Pt. III para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Interpretation

- 21 In this Part of this Schedule “parent” has the same meaning as in [^{F170}the Education Act 1996.]

Textual Amendments

F170 Words in Sch. 3 Pt. III para. 21 substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37, Pt. I para. 93(3)(with s. 1(4))

Commencement Information

I63 Sch. 3 Pt. III para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

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SCHEDULE 4

Section 53(6).

MANAGEMENT AND CONDUCT OF COMMUNITY HOMES

PART I

INSTRUMENTS OF MANAGEMENT

Instruments of management for controlled and assisted community homes

- 1 (1) The Secretary of State may by order make an instrument of management providing for the constitution of a body of managers for any ^{F171} . . . home which is designated as a controlled or assisted community home.
- (2) Sub-paragraph (3) applies where two or more ^{F171} . . . homes are designated as controlled community homes or as assisted community homes.
- (3) If—
- (a) those homes are, or are to be, provided by the same voluntary organisation; and
 - (b) the same local authority is to be represented on the body of managers for those homes,
- a single instrument of management may be made by the Secretary of State under this paragraph constituting one body of managers for those homes or for any two or more of them.
- (4) The number of persons who, in accordance with an instrument of management, constitute the body of managers for a ^{F171} . . . home shall be such number (which must be a multiple of three) as may be specified in the instrument.
- (5) The instrument shall provide that the local authority specified in the instrument shall appoint—
- (a) in the case of a ^{F171} . . . home which is designated as a controlled community home, two-thirds of the managers; and
 - (b) in the case of a ^{F171} . . . home which is designated as an assisted community home, one-third of them.
- (6) An instrument of management shall provide that the foundation managers shall be appointed, in such manner and by such persons as may be specified in the instrument—
- (a) so as to represent the interests of the voluntary organisation by which the home is, or is to be, provided; and
 - (b) for the purpose of securing that—
 - (i) so far as is practicable, the character of the home ^{F172} . . . will be preserved; and
 - (ii) subject to paragraph 2(3), the terms of any trust deed relating to the home are observed.
- (7) An instrument of management shall come into force on such date as it may specify.

Status: Point in time view as at 21/12/2018.

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- (8) If an instrument of management is in force in relation to a ^{F171} . . . home the home shall be (and be known as) a controlled community home or an assisted community home, according to its designation.
- (9) In this paragraph—
- “foundation managers”, in relation to a ^{F171} . . . home, means those of the managers of the home who are not appointed by a local authority in accordance with sub-paragraph (5); and
- “designated” means designated in accordance with section 53.

Textual Amendments

F171 Word in Sch. 4 para. 1(1)(2)(4)(5)(8)(9) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 28(1), **Sch. 20**; S.I. 1991/1883, art. 3, Sch.

F172 Words in Sch. 4 para. 1(6)(b)(i) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 28(2), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I64 Sch. 4 Pt. I para. 1 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 2 (1) An instrument of management shall contain such provisions as the Secretary of State considers appropriate.
- (2) Nothing in the instrument of management shall affect the purposes for which the premises comprising the home are held.
- (3) Without prejudice to the generality of sub-paragraph (1), an instrument of management may contain provisions—
- (a) specifying the nature and purpose of the home (or each of the homes) to which it relates;
- (b) requiring a specified number or proportion of the places in that home (or those homes) to be made available to local authorities and to any other body specified in the instrument; and
- (c) relating to the management of that home (or those homes) and the charging of fees with respect to—
- (i) children placed there; or
- (ii) places made available to any local authority or other body.
- (4) Subject to sub-paragraphs (1) and (2), in the event of any inconsistency between the provisions of any trust deed and an instrument of management, the instrument of management shall prevail over the provisions of the trust deed in so far as they relate to the home concerned.
- (5) After consultation with the voluntary organisation concerned and with the local authority specified in its instrument of management, the Secretary of State may by order vary or revoke any provisions of the instrument.

Commencement Information

I65 Sch. 4 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: Point in time view as at 21/12/2018.

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PART II

MANAGEMENT OF CONTROLLED AND ASSISTED COMMUNITY HOMES

- 3 (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local authority specified in its instrument of management.
- (2) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by which the home is provided.
- (3) In this paragraph—
 “home” means a controlled community home or (as the case may be) assisted community home; and
 “the managers”, in relation to a home, means the managers constituted by its instrument of management; and
 “the responsible body”, in relation to a home, means the local authority or (as the case may be) voluntary organisation responsible for its management, equipment and maintenance.
- (4) The functions of a home’s responsible body shall be exercised through the managers [F173, except in so far as, under section 53(3B), any of the accommodation is to be managed by another person].
- (5) Anything done, liability incurred or property acquired by a home’s managers shall be done, incurred or acquired by them as agents of the responsible body [F174; and similarly, to the extent that a contract so provides, as respects anything done, liability incurred or property acquired by a person by whom, under section 53(3B), any of the accommodation is to be managed].
- (6) In so far as any matter is reserved for the decision of a home’s responsible body by—
 (a) sub-paragraph (8);
 (b) the instrument of management;
 (c) the service by the body on the managers, or any of them, of a notice reserving any matter,
 that matter shall be dealt with by the body and not by the managers.
- (7) In dealing with any matter so reserved, the responsible body shall have regard to any representations made to the body by the managers.
- (8) The employment of persons at a home shall be a matter reserved for the decision of the responsible body.
- (9) Where the instrument of management of a controlled community home so provides, the responsible body may enter into arrangements with the voluntary organisation by which that home is provided whereby, in accordance with such terms as may be agreed between them and the voluntary organisation, persons who are not in the employment of the responsible body shall undertake duties at that home.
- (10) Subject to sub-paragraph (11)—
 (a) where the responsible body for an assisted community home proposes to engage any person to work at that home or to terminate without notice the employment of any person at that home, it shall consult the local authority specified in the instrument of management and, if that authority so direct, the responsible body shall not carry out its proposal without their consent; and

Status: Point in time view as at 21/12/2018.

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- (b) that local authority may, after consultation with the responsible body, require that body to terminate the employment of any person at that home.
- (11) Paragraphs (a) and (b) of sub-paragraph (10) shall not apply—
 - (a) in such cases or circumstances as may be specified by notice in writing given by the local authority to the responsible body; and
 - (b) in relation to the employment of any persons or class of persons specified in the home’s instrument of management.
- (12) The accounting year of the managers of a home shall be such as may be specified by the responsible body.
- (13) Before such date in each accounting year as may be so specified, the managers of a home shall submit to the responsible body estimates, in such form as the body may require, of expenditure and receipts in respect of the next accounting year.
- (14) Any expenses incurred by the managers of a home with the approval of the responsible body shall be defrayed by that body.
- (15) The managers of a home shall keep—
 - (a) proper accounts with respect to the home; and
 - (b) proper records in relation to the accounts.
- (16) Where an instrument of management relates to more than one home, one set of accounts and records may be kept in respect of all the homes to which it relates.

Textual Amendments

- F173** Words in [Sch. 4 Pt. II para. 3\(4\)](#) inserted (8.3.1996) by [1994 c. 33, s. 22\(3\)\(a\)](#); S.I. 1996/625, [art. 2](#)
- F174** Words in [Sch. 4 Pt. II para. 3\(5\)](#) inserted (8.3.1996) by [1994 c. 33, s. 22\(3\)\(b\)](#); S.I. 1996/625, [art. 2](#)

Commencement Information

- I66** [Sch. 4 Pt. II para. 3](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and S.I. 1991/828, [art. 3\(2\)](#)

PART III

REGULATIONS

- 4 (1) The Secretary of State may make regulations—
 - (a) as to the placing of children in community homes;
 - ^{F175}(b)
 - ^{F175}(c)
- ^{F176}(2)
- ^{F176}(3)

Textual Amendments

- F175** [Sch. 4 Pt. III para. 4\(1\)\(b\)\(c\)](#) repealed (1.4.2002) by [2000 c. 14, s. 117\(2\)](#), [Sch. 6](#); S.I. 2001/4150, [art. 3\(3\)\(c\)\(viii\)](#) (subject to transitional provision in [art. 4](#) of the commencing S.I. and to the amendment of

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art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

F176 Sch. 4 Pt. III para. 4(2)(3) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I67 Sch. 4 Pt. III para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

SCHEDULE 5

Section 60(4).

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

PART I

REGISTRATION OF VOLUNTARY HOMES

General

F177₁

Textual Amendments

F177 Sch. 5 Pt. I para. 1 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Procedure

F178₂

Textual Amendments

F178 Sch. 5 Pt. I para. 2 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Right to make representations

F179₃

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Textual Amendments

F179 Sch. 5 Pt. I para. 3 repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Decision of Secretary of State

F180⁴

Textual Amendments

F180 Sch. 5 Pt. I para. 4 repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Appeals

F181⁵

Textual Amendments

F181 Sch. 5 Pt. I para. 5 repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Notification of particulars with respect to voluntary homes

F182⁶

Textual Amendments

F182 Sch. 5 Pt. I para. 6 repealed (1.4.2002) by 2000 c. 14, s. 117(2), 122, Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

PART II

REGULATIONS AS TO VOLUNTARY HOMES

Regulations as to conduct of voluntary homes

- 7 (1) The [^{F183}appropriate national authority] may make regulations—
- (a) as to the placing of children in voluntary homes;
 - ^{F184}(b)
 - ^{F184}(c)

Status: Point in time view as at 21/12/2018.

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- F185(2)
- F185(3)
- F185(4)

Textual Amendments

- F183** Words in Sch. 5 para. 7 substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 28**
- F184** Sch. 5 Pt. II para. 7(1)(b)(c) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F185** Sch. 5 Pt. II para. 7(2)-(4) repealed (1.4.2002) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

- I68** Sch. 5 Pt. II para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Disqualification

- F186g

Textual Amendments

- F186** Sch. 5 Pt. II para. 8 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

SCHEDULE 6

Section 63(11).

[^{F187} PRIVATE CHILDREN’S HOMES]

Textual Amendments

- F187** Sch. 6: words in heading substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(25)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

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PART I

REGISTRATION

Application for registration

F188¹

Textual Amendments

F188 Sch. 6 Pt. I para. 1 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)** and transitional provisions in **Schs. 1-3**)

Conditions imposed on registration

F189²

Textual Amendments

F189 Sch. 6 Pt. I para. 2 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)** and transitional provisions in **Schs. 1-3**)

Annual review of registration

F190³

Textual Amendments

F190 Sch. 6 Pt. I para. 3 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)** and transitional provisions in **Schs. 1-3**)

Cancellation of registration

F191⁴

Textual Amendments

F191 Sch. 6 Pt. I para. 4 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)** and transitional provisions in **Schs. 1-3**)

Procedure

F192⁵

Status: Point in time view as at 21/12/2018.

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Textual Amendments

F192 Sch. 6 Pt. I para. 5 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)**) and transitional provisions in **Schs. 1-3**)

Right to make representations

F1936

Textual Amendments

F193 Sch. 6 Pt. I para. 6 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)**) and transitional provisions in **Schs. 1-3**)

Decision of local authority

F1947

Textual Amendments

F194 Sch. 6 Pt. I para. 7 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)**) and transitional provisions in **Schs. 1-3**)

Appeals

F1958

Textual Amendments

F195 Sch. 6 Pt. I para. 8 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)**) and transitional provisions in **Schs. 1-3**)

Prohibition on further applications

F1969

Textual Amendments

F196 Sch. 6 Pt. I para. 9 repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in **art. 4** of the commencing S.I. and to the amendment of **art. 3** by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)**) and transitional provisions in **Schs. 1-3**)

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PART II

REGULATIONS

- 10 (1) The Secretary of State may make regulations—
- (a) as to the placing of children in [^{F197}private] children’s homes;
 - ^{F198}(b)
 - ^{F198}(c)
- (2) The regulations may in particular—
- ^{F199}(a)
 - ^{F199}(b)
 - ^{F199}(c)
 - ^{F199}(d)
 - ^{F199}(e)
 - ^{F199}(f)
 - ^{F199}(g)
 - ^{F199}(h)
 - ^{F199}(i)
 - ^{F199}(j)
 - ^{F199}(jj)
 - ^{F199}(k)
 - (l) make provision similar to that made by regulations under section 26.
- ^{F200}(3)
- ^{F200}(4)

Textual Amendments

- F197** Words in Sch. 6 Pt. II para. 10(1)(a) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(25) (b); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F198** Sch. 6 Pt. II para. 10(1)(b)(c) repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F199** Sch. 6 Pt. II para. 10(2)(a)-(k) repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F200** Sch. 6 Pt. II para. 10(3)(4) repealed (1.4.2002) by 2002 c. 14, s. 117(2), Sch. 6; S.I. 2002/4150, art. 3(3)(e)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

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Commencement Information

I69 Sch. 6 Pt. II para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

SCHEDULE 7

Section 63(12).

FOSTER PARENTS: LIMITS ON NUMBER OF FOSTER CHILDREN

Interpretation

- 1 For the purposes of this Schedule, a person fosters a child if—
- (a) he is a local authority foster parent in relation to the child;
 - (b) he is a foster parent with whom the child has been placed by a voluntary organisation; or
 - (c) he fosters the child privately.

Commencement Information

I70 Sch. 7 para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The usual fostering limit

- 2 Subject to what follows, a person may not foster more than three children (“the usual fostering limit”).

Commencement Information

I71 Sch. 7 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Siblings

- 3 A person may exceed the usual fostering limit if the children concerned are all siblings with respect to each other.

Commencement Information

I72 Sch. 7 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Exemption by local authority

- 4 (1) A person may exceed the usual fostering limit if he is exempted from it by the local authority within whose area he lives.
- (2) In considering whether to exempt a person, a local authority shall have regard, in particular, to—
- (a) the number of children whom the person proposes to foster;
 - (b) the arrangements which the person proposes for the care and accommodation of the fostered children;

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (c) the intended and likely relationship between the person and the fostered children;
 - (d) the period of time for which he proposes to foster the children; and
 - (e) whether the welfare of the fostered children (and of any other children who are or will be living in the accommodation) will be safeguarded and promoted.
- (3) Where a local authority exempt a person, they shall inform him by notice in writing—
- (a) that he is so exempted;
 - (b) of the children, described by name, whom he may foster; and
 - (c) of any condition to which the exemption is subject.
- (4) A local authority may at any time by notice in writing—
- (a) vary or cancel an exemption; or
 - (b) impose, vary or cancel a condition to which the exemption is subject,
- and, in considering whether to do so, they shall have regard in particular to the considerations mentioned in sub-paragraph (2).
- (5) The Secretary of State may make regulations amplifying or modifying the provisions of this paragraph in order to provide for cases where children need to be placed with foster parents as a matter of urgency.

Commencement Information

I73 Sch. 7 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Effect of exceeding fostering limit

5^{F201}(A1) This paragraph applies to a person fostering in England.]

- (1) A person shall cease to be treated [^{F202}, for the purposes of this Act and the Care Standards Act 2000] as fostering and shall be treated [^{F202}, for the purposes of this Act and the Care Standards Act 2000] as carrying on a children’s home if—
- (a) he exceeds the usual fostering limit; or
 - (b) where he is exempted under paragraph 4,—
 - (i) he fosters any child not named in the exemption; and
 - (ii) in so doing, he exceeds the usual fostering limit.
- (2) Sub-paragraph (1) does not apply if the children concerned are all siblings in respect of each other.

Textual Amendments

F201 Sch. 7 para. 5(A1) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\), regs. 2\(1\), 13\(a\)](#)

F202 Words in Sch. 7 para. 5(1) inserted (1.4.2002) by 2000 c. 14, s. 116, [Sch. 4 para. 14\(26\)](#); [S.I. 2001/4150, art. 3\(3\)\(a\)](#) (subject to transitional provision in [art. 4](#) of the commencing S.I. and to the amendment of [art. 3](#) by [S.I. 2002/1493, art. 6](#)); [S.I. 2002/920, art. 3\(3\)\(d\)](#) (with [art. 3\(4\)-\(10\)](#) and transitional provisions in [Schs. 1-3](#))

Status: Point in time view as at 21/12/2018.

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Commencement Information

I74 Sch. 7 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

[^{F203}5A(1) This paragraph applies to a person (P) fostering in Wales.

- (2) Sub-paragraph (3) applies where—
- (a) P exceeds the usual fostering limit and is not exempted under paragraph 4;
 - (b) P is exempted under paragraph 4 and exceeds the usual fostering limit by fostering a child not named in the exemption.
- (3) Where this paragraph applies, P is not to be treated as fostering and is to be treated for the purposes of the Regulation and Inspection of Social Care (Wales) Act 2016 as providing a care home service.
- (4) But sub-paragraph (3) does not apply if the children fostered are all siblings in respect of each other.]

Textual Amendments

F203 Sch. 7 para. 5A inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), [regs. 2\(1\)](#), 13(b)

Complaints etc.

- 6 (1) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them about the discharge of their functions under paragraph 4 by a person exempted or seeking to be exempted under that paragraph.
- (2) In carrying out any consideration of representations under sub-paragraph (1), a local authority shall comply with any regulations made by the Secretary of State for the purposes of this paragraph.

Commencement Information

I75 Sch. 7 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

SCHEDULE 8

Section 66(5).

PRIVATELY FOSTERED CHILDREN

Exemptions

- 1 A child is not a privately fostered child while he is being looked after by a local authority.

Commencement Information

I76 Sch. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Status: Point in time view as at 21/12/2018.

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- 2 (1) A child is not a privately fostered child while he is in the care of any person—
- (a) in premises in which any—
 - (i) parent of his;
 - (ii) person who is not a parent of his but who has parental responsibility for him; or
 - (iii) person who is a relative of his and who has assumed responsibility for his care,is for the time being living;
 - ^{F204}(b)
 - (c) in accommodation provided by or on behalf of any voluntary organisation;
 - (d) in any school in which he is receiving full-time education;
 - (e) in any health service hospital;
 - ^{F205}(f) in any care home or independent hospital]
 - (g) in any home or institution not specified in this paragraph but provided, equipped and maintained by the Secretary of State.
- (2) Sub-paragraph ^{F206}(1)(c) to (g) does not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the paragraph in question.

Textual Amendments

- F204** Sch. 8 para. 2(1)(b) repealed (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(27)(a), Sch. 6; S.I. 2001/4150, art. 3(3)(a)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d)(g) (with art 3(4)-(10) and transitional provisions in Schs. 1-3)
- F205** Sch. 8 para. 2(1)(f) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(28); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art 3(4)-(10) and transitional provisions in Schs. 1-3)
- F206** Words in Sch. 8 para. 2(2) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 14(27)(a); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

- I77** Sch. 8 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 3 A child is not a privately fostered child while he is in the care of any person in compliance with—
- ^{F207}(a) a youth rehabilitation order made under section 1 of the Criminal Justice and Immigration Act 2008;]
 - ^{F208}(b) a compulsory supervision order or interim compulsory supervision order as defined by sections 83 and 86 of the Children’s Hearings (Scotland) Act 2011.]

Textual Amendments

- F207** Sch. 8 para. 3(a) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, Sch. 4 para. 38 (with Sch. 27 paras. 1 and 5); S.I. 2009/3074, art. 2(p)(v)

Status: Point in time view as at 21/12/2018.

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F208 Sch. 8 para. 3(b) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), art. 1(2), **Sch. 1 para. 2(4)**

Commencement Information

I78 Sch. 8 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

4 A child is not a privately fostered child while he is liable to be detained, or subject to guardianship, under the ^{M10}Mental Health Act 1983.

Commencement Information

I79 Sch. 8 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M10 1983 c. 20.

5 A child is not a privately fostered child while [^{F209}he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—

- (a) section 2 of the Adoption and Children Act 2002;
- [^{F210}(b) section 119 of the Adoption and Children (Scotland) Act 2007; or]
- (c) Article 3 of the Adoption (Northern Ireland) Order 1987]

[^{F211}or while he is a child in respect of whom a local authority have functions by virtue of regulations under section 83(6)(b) of the Adoption and Children Act 2002 (which relates to children brought into the United Kingdom for adoption), or corresponding functions by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act 1999 (regulations to give effect to Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption).]

Textual Amendments

F209 Sch. 8 para. 5(a)-(c) and preceding words substituted (30.12.2005) for Sch. 8 para. 5(a)(b) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 73 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

F210 Sch. 8 para. 5(b) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 3(3)**

F211 Words in Sch. 8 para. 5 inserted (2.8.2007) by Children and Adoption Act 2006 (c. 20), **ss. 14(3), 17**; S.I. 2007/2287, **art. 2(1)(c)**

Modifications etc. (not altering text)

C11 Sch. 8 para. 5 modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 5, **Sch. 4** (with Sch. 1)

C12 Sch. 8 para. 5 modified (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), reg. 1(2), **Sch. 4 para. 15**

Commencement Information

I80 Sch. 8 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status: Point in time view as at 21/12/2018.

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Power of local authority to impose requirements

- 6 (1) Where a person is fostering any child privately, or proposes to foster any child privately, the appropriate local authority may impose on him requirements as to—
- (a) the number, age and sex of the children who may be privately fostered by him;
 - (b) the standard of the accommodation and equipment to be provided for them;
 - (c) the arrangements to be made with respect to their health and safety; and
 - (d) particular arrangements which must be made with respect to the provision of care for them,
- and it shall be his duty to comply with any such requirement before the end of such period as the authority may specify unless, in the case of a proposal, the proposal is not carried out.
- (2) A requirement may be limited to a particular child, or class of child.
- (3) A requirement (other than one imposed under sub-paragraph (1)(a)) may be limited by the authority so as to apply only when the number of children fostered by the person exceeds a specified number.
- (4) A requirement shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—
- (a) the reason for imposing the requirement;
 - (b) his right under paragraph 8 to appeal against it; and
 - (c) the time within which he may do so.
- (5) A local authority may at any time vary any requirement, impose any additional requirement or remove any requirement.
- (6) In this Schedule—
- (a) “the appropriate local authority” means—
 - (i) the local authority within whose area the child is being fostered; or
 - (ii) in the case of a proposal to foster a child, the local authority within whose area it is proposed that he will be fostered; and
 - (b) “requirement”, in relation to any person, means a requirement imposed on him under this paragraph.

Modifications etc. (not altering text)

C13 Sch. 8 para. 6: power to amend conferred (15.1.2005) by the [Children Act 2004 \(c. 31\)](#), [ss. 45-47](#)

Commencement Information

I81 Sch. 8 para. 6 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828](#), [art. 3\(2\)](#)

Regulations requiring notification of fostering etc.

- 7 (1) The Secretary of State may by regulations make provision as to—
- (a) the circumstances in which notification is required to be given in connection with children who are, have been or are proposed to be fostered privately; and
 - (b) the manner and form in which such notification is to be given.

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- (2) The regulations may, in particular—
- (a) require any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately to notify the appropriate authority;
 - (b) require any person who is—
 - (i) a parent of a child; or
 - (ii) a person who is not a parent of his but who has parental responsibility for a child,

and who knows that it is proposed that the child should be fostered privately, to notify the appropriate authority;
 - (c) require any parent of a privately fostered child, or person who is not a parent of such a child but who has parental responsibility for him, to notify the appropriate authority of any change in his address;
 - (d) require any person who proposes to foster a child privately, to notify the appropriate authority of his proposal;
 - (e) require any person who is fostering a child privately, or proposes to do so, to notify the appropriate authority of—
 - (i) any offence of which he has been convicted;
 - (ii) any disqualification imposed on him under section 68; or
 - (iii) any prohibition imposed on him under section 69;
 - (f) require any person who is fostering a child privately, to notify the appropriate authority of any change in his address;
 - (g) require any person who is fostering a child privately to notify the appropriate authority in writing of any person who begins, or ceases, to be part of his household;
 - (h) require any person who has been fostering a child privately, but has ceased to do so, to notify the appropriate authority (indicating, where the child has died, that that is the reason).

Modifications etc. (not altering text)

C14 Sch. 8 para. 7: power to amend conferred (15.1.2005) by the [Children Act 2004 \(c. 31\)](#), **ss. 45-47**

Commencement Information

I82 Sch. 8 para. 7 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828](#), **art. 3(2)**

[^{F212}7A Every local authority must promote public awareness in their area of requirements as to notification for which provision is made under paragraph 7.]

Textual Amendments

F212 Sch. 8 para. 7A inserted (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **s. 44(7)**; [S.I. 2005/394](#), **art. 2(2)(d)**; [S.I. 2006/885](#), **art. 2(2)(b)**

Appeals

- 8 (1) A person aggrieved by—
- (a) a requirement imposed under paragraph 6;

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- (b) a refusal of consent under section 68;
 - (c) a prohibition imposed under section 69;
 - (d) a refusal to cancel such a prohibition;
 - (e) a refusal to make an exemption under paragraph 4 of Schedule 7;
 - (f) a condition imposed in such an exemption; or
 - (g) a variation or cancellation of such an exemption,
- may appeal to the court.
- (2) The appeal must be made within fourteen days from the date on which the person appealing is notified of the requirement, refusal, prohibition, condition, variation or cancellation.
- (3) Where the appeal is against—
- (a) a requirement imposed under paragraph 6;
 - (b) a condition of an exemption imposed under paragraph 4 of Schedule 7; or
 - (c) a variation or cancellation of such an exemption,
- the requirement, condition, variation or cancellation shall not have effect while the appeal is pending.
- (4) Where it allows an appeal against a requirement or prohibition, the court may, instead of cancelling the requirement or prohibition—
- (a) vary the requirement, or allow more time for compliance with it; or
 - (b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the local authority had power to impose under paragraph 6 are complied with.
- (5) Any requirement or prohibition specified or substituted by a court under this paragraph shall be deemed for the purposes of Part IX (other than this paragraph) to have been imposed by the local authority under paragraph 6 or (as the case may be) section 69.
- (6) Where it allows an appeal against a refusal to make an exemption, a condition imposed in such an exemption or a variation or cancellation of such an exemption, the court may—
- (a) make an exemption;
 - (b) impose a condition; or
 - (c) vary the exemption.
- (7) Any exemption made or varied under sub-paragraph (6), or any condition imposed under that sub-paragraph, shall be deemed for the purposes of Schedule 7 (but not for the purposes of this paragraph) to have been made, varied or imposed under that Schedule.
- (8) Nothing in sub-paragraph (1)(e) to (g) confers any right of appeal on—
- (a) a person who is, or would be if exempted under Schedule 7, a local authority foster parent; or
 - (b) a person who is, or would be if so exempted, a person with whom a child is placed by a voluntary organisation.

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Modifications etc. (not altering text)

C15 Sch. 8 para. 8: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), ss. 45-47

Commencement Information

I83 Sch. 8 para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Extension of Part IX to certain school children during holidays

9 (1) Where a child under sixteen who is a pupil at a school ^{F213} . . . lives at the school during school holidays for a period of more than two weeks, Part IX shall apply in relation to the child as if—

- (a) while living at the school, he were a privately fostered child; and
- (b) paragraphs [^{F214}2(1)(c) and (d)] and 6 were omitted.

[^{F215}But this sub-paragraph does not apply to a school which is [^{F216}a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000][^{F217}or Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016].]

- (2) Sub-paragraph (3) applies to any person who proposes to care for and accommodate one or more children at a school in circumstances in which some or all of them will be treated as private foster children by virtue of this paragraph.
- (3) That person shall, not less than two weeks before the first of those children is treated as a private foster child by virtue of this paragraph during the holiday in question, give written notice of his proposal to the local authority within whose area the child is ordinarily resident ("the appropriate authority"), stating the estimated number of the children.
- (4) A local authority may exempt any person from the duty of giving notice under sub-paragraph (3).
- (5) Any such exemption may be granted for a special period or indefinitely and may be revoked at any time by notice in writing given to the person exempted.
- (6) Where a child who is treated as a private foster child by virtue of this paragraph dies, the person caring for him at the school shall, not later than 48 hours after the death, give written notice of it—
 - (a) to the appropriate local authority; and
 - (b) where reasonably practicable, to each parent of the child and to every person who is not a parent of his but who has parental responsibility for him.
- (7) Where a child who is treated as a foster child by virtue of this paragraph ceases for any other reason to be such a child, the person caring for him at the school shall give written notice of the fact to the appropriate local authority.

Textual Amendments

F213 Words in Sch. 8 para. 9(1) repealed (1.4.2002) by 2000 c. 14, ss. 110, 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment

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of art. 3 by S.I. 2002/1493, **art. 6**; S.I. 2002/920, **art. 3(3)(c)(g)** (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

F214 Words in Sch. 8 para. 9(1)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)

F215 Words in Sch. 8 para. 9(1) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(27)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art 3(4)-(10) and transitional provisions in Schs. 1-3)

F216 Words in Sch. 8 para. 9(1) substituted (1.4.2011 for E., 6.4.2016 for W.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), **Sch. 1 para. 6**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)

F217 Words in Sch. 8 para. 9(1) inserted (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), **regs. 2(1), 14**

Modifications etc. (not altering text)

C16 Sch. 8 para. 9: power to amend conferred (15.1.2005) by the Children Act 2004 (c. 31), **ss. 45-47**

Commencement Information

I84 Sch. 8 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Prohibition of advertisements relating to fostering

- 10 No advertisement indicating that a person will undertake, or will arrange for, a child to be privately fostered shall be published, unless it states that person's name and address.

Commencement Information

I85 Sch. 10 para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Avoidance of insurances on lives of privately fostered children

- 11 A person who fosters a child privately and for reward shall be deemed for the purposes of the ^{M11}Life Assurance Act 1774 to have no interest in the life of the child.

Commencement Information

I86 Sch. 8 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M11 1774 c. 48.

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F218 SCHEDULE 9

Section 71(16).

Textual Amendments

F218 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(i) (subject to arts. 3-13)

Modifications etc. (not altering text)

C17 Pt. X and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.)) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(a)(2)(3) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Applications for registration

F219₁

Textual Amendments

F219 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C18 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.)) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Disqualification from registration

F220₂

Textual Amendments

F220 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C19 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.)) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Exemption of certain schools

F221₃

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Textual Amendments

F221 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C20 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Exemption for other establishments

F222⁴

Textual Amendments

F222 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C21 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Exemption for occasional facilities

F223⁵

Textual Amendments

F223 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C22 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Certificates of registration

F224⁶

Textual Amendments

F224 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

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Modifications etc. (not altering text)

C23 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Fees for annual inspection of premises

- F2257 (1) Where—
 - (a) a person is registered under section 71, and
 - (b) the local authority concerned make an annual inspection of the premises in question under section 76,
 they shall serve on that person a notice informing him that the inspection is to be carried out and requiring him to pay to them such fee as may be prescribed.
- (2) It shall be a condition of the continued registration of that person under section 71 that the fee is so paid before the expiry of the period of twenty-eight days beginning with the date on which the inspection is carried out.

Textual Amendments

F225 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C24 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

Co-operation between authorities

F2268

Textual Amendments

F226 Sch. 9 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), Sch. 4; S.S.I. 2002/162, art. 2(g)(I) (subject to arts. 3-13)

Modifications etc. (not altering text)

C25 Pt. X (ss. 71-79) and Sch. 9: By 2000 c. 14, s. 79(5) it is provided (2.7.2001 (E.) and 1.4.2002 (W.) that Pt. X and Sch. 9 shall cease to extend to England and Wales; S.I. 2001/2041, art. 2(1)(c) (with transitional provisions and savings in the Sch.); S.I. 2002/920, art. 3(3)(b) (subject to transitional provisions in Schs. 1-3)

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F227 F228 SCHEDULE 9A

Textual Amendments

- F227** Sch. 9A repealed (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), ss. 73, 75, Sch. 2; S.I. 2010/2582, **art. 2**, Sch. 1 (with Schs. 2, 3)
- F228** Sch. 9A (paras. 1-8) inserted ((E.) 16.3.2001 for specified purposes otherwise 2.7.2001 and (W.) 1.7.2001 for specified purposes otherwise 1.4.2002) by 2000 c. 14, s. 79(2), **Sch. 3**; S.I. 2001/1210, **art. 2(b)**; S.I. 2001/2041, **art. 2(1)(b)**(with transitional provisions and savings in art. 3); S.I. 2001/2190, art. 2, **Sch.**; S.I. 2002/920, **art. 3(3)(b)** (subject to transitional provisions in Schs. 1-3)
- F229** Sch. 9A: words in heading inserted (1.9.2008) by **Childcare Act 2006** (c. 21), ss. 103(1), 109, **Sch. 2 para. 18(2)**; S.I. 2008/2261, **art. 2** (with art. 3 Sch. 1 and art. 4 Sch. 2)

SCHEDULE 10

Section 88.

AMENDMENTS OF ADOPTION LEGISLATION

PART I

AMENDMENTS OF ADOPTION ACT 1976 (C. 36)

1 F275

Textual Amendments

- F275** Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

2 F276

Textual Amendments

- F276** Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

3 F277

Textual Amendments

- F277** Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

4 F278

Status: Point in time view as at 21/12/2018.

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Textual Amendments

F278 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

5 **F279**

Textual Amendments

F279 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

6 **F280**

Textual Amendments

F280 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

7 **F281**

Textual Amendments

F281 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

8 **F282**

Textual Amendments

F282 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

9 **F283**

Textual Amendments

F283 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

10 **F284**

Textual Amendments

F284 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

11 **F285**

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Textual Amendments

F285 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

12 **F286**

Textual Amendments

F286 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

13 **F287**

Textual Amendments

F287 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

14 **F288**

Textual Amendments

F288 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

15 **F289**

Textual Amendments

F289 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

16 **F290**

Textual Amendments

F290 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

17 **F291**

Textual Amendments

F291 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

18 **F292**

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Textual Amendments

F292 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

19 **F293**

Textual Amendments

F293 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

20 **F294**

Textual Amendments

F294 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

21 **F295**

Textual Amendments

F295 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

22 **F296**

Textual Amendments

F296 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

23 **F297**

Textual Amendments

F297 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

24 **F298**

Textual Amendments

F298 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

25 **F299**

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Textual Amendments

F299 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

26 **F300**

Textual Amendments

F300 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

27 **F301**

Textual Amendments

F301 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

28 **F302**

Textual Amendments

F302 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

F303 29

Textual Amendments

F303 Sch. 10 para. 29 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 para. 97, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

30 **F304**

Textual Amendments

F304 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

31 **F305**

Textual Amendments

F305 Sch. 10 Pt. I repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 74, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

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F306 PART II

AMENDMENTS OF ADOPTION (SCOTLAND) ACT 1978 (C. 28)

.....

Textual Amendments

F306 Sch. 10 Pt. 2 repealed (E.W.) (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#) art. 1(2), Sch. 2 Pt. 3 (repealed (S.) (28.9.2009) by [Adoption and Children \(Scotland\) Act 2007 \(asp. 4\)](#), s. 121(2), **Sch. 3**; [S.S.I. 2009/267](#), art. 1(2), 2 (with arts. 3-21))

SCHEDULE 11

Section 92.

JURISDICTION

Modifications etc. (not altering text)

C26 Sch. 11 applied (6.4.2007) by [Childcare Act 2006 \(c. 21\)](#), **ss. 79(4)**, 109; [S.I. 2007/1019](#), **art. 4**

C27 Sch. 11 applied by [Childcare Act 2006 \(c. 21\)](#), s. 98F(5) (as inserted (12.1.2010) by [2009 c. 22](#), **ss. 199**, 269(2)(b))

C28 Sch. 11 applied (W.) (1.4.2011) by [Children and Families \(Wales\) Measure 2010 \(nawm 1\)](#), **ss. 43(4)**, 75; [S.I. 2010/2582](#), **art. 2**, **Sch. 1** (subject to **arts. 3, 4, 5**) (as amended by [S.I. 2011/577](#), art. 2)

F307 PART I

GENERAL

.....

Textual Amendments

F307 Sch. 11 Pt. I omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 121**; [S.I. 2014/954](#), **art. 2(e)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

PART II

CONSEQUENTIAL AMENDMENTS

The Administration of Justice Act 1964 (c. 42)

5 In section 38 of the Administration of Justice Act 1964 (interpretation), the definition of “domestic court”, which is spent, shall be omitted.

Status: Point in time view as at 21/12/2018.

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Commencement Information

I87 Sch. 11 Pt. II para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

- 6 In the Domestic Proceedings and Magistrates' Courts Act 1978—
- (a) for the words “domestic proceedings”, wherever they occur in [F308 section] 88(1), there shall be substituted “family proceedings”;
 - (b) for the words “domestic court panel”, wherever they occur in section 16(5)(b), there shall be substituted “family panel”.

Textual Amendments

F308 Word in Sch. 11 para. 6(a) substituted (1.10.1997) by 1996 c. 27, s. 66(1), Sch. 8 Pt. III para. 60(2)(with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, art. 3(1)(a)

Commencement Information

I88 Sch. 11 Pt. II para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Justices of the Peace Act 1979 (c. 55)

F3097

Textual Amendments

F309 Sch. 11 Pt. II para. 7 repealed (19.6.1997) by 1997 c. 25, ss. 73(1)(3), 74(1), Sch. 4 Pt. II, para. 7(2)(f)(ii), Sch. 6, Pt. I

The Magistrates' Courts Act 1980 (c. 43)

- 8 In the Magistrates' Courts Act 1980—
- F310(a)
 - F310(b)
 - F310(c)
 - F311(d)
 - F311(e)
 - F311(f)
 - F311(g)

Textual Amendments

F310 Sch. 11 para. 8(a)-(c) repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 99 Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F311 Sch. 11 para. 8(d)-(g) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(3), Sch. 10; S.I. 2005/910, art. 3(aa)

Status: Point in time view as at 21/12/2018.

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Commencement Information

I89 Sch. 11 Pt. II para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The [F312 Senior Courts Act 1981] (c. 54)

Textual Amendments

F312 Sch. 11 para. 9 cross-heading: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

- 9 In paragraph 3 of Schedule 1 to the [F313 Senior Courts Act 1981] (distribution of business to the Family Division of the High Court), the following sub-paragraph shall be added at the end—
- “(e) proceedings under the Children Act 1989”.

Textual Amendments

F313 Sch. 11 para. 9: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

Commencement Information

I90 Sch. 11 Pt. II para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Matrimonial and Family Proceedings Act 1984 (c. 42)

- 10 In section 44 of the Matrimonial and Family Proceedings Act 1984 (domestic proceedings in magistrates' courts to include applications to alter maintenance agreements) for the words “domestic proceedings”, wherever they occur, there shall be substituted “family proceedings”.

Commencement Information

I91 Sch. 11 Pt. II para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828 art. 3(2)

The Insolvency Act 1986 (c. 45)

- 11 (1) In section 281(5)(b) of the Insolvency Act 1986 (discharge not to release bankrupt from bankruptcy debt arising under any order made in family proceedings or in domestic proceedings), the words “or in domestic proceedings” shall be omitted.
- (2) In section 281(8) of that Act (interpretation), for the definitions of “domestic proceedings” and “family proceedings” there shall be substituted—
- “family proceedings” means—
- (a) family proceedings within the meaning of the Magistrates' Courts Act 1980 and any proceedings which would be such proceedings but for section 65(1)(ii) of that Act (proceedings for variation of order for periodical payments); and

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- (b) family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.

Commencement Information

I92 Sch. 11 Pt. II para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

SCHEDULE 12

Section 108(4).

MINOR AMENDMENTS

The Custody of Children Act 1891 (c. 3)

- 1 The Custody of Children Act 1891 (which contains miscellaneous obsolete provisions with respect to the custody of children) shall cease to have effect.

Commencement Information

I93 Sch. Pt. para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Children and Young Persons Act 1933 (c. 12)

- 2 In section 1(2)(a) of the Children and Young Persons Act 1933 (cruelty to persons under sixteen), after the words “young person” there shall be inserted “, or the legal guardian of a child or young person,”.

Commencement Information

I94 Sch. 12 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 3 Section 40 of that Act shall cease to have effect.

Commencement Information

I95 Sch. 12 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Education Act 1944 (c. 31)

- 4 ^{F314}

Textual Amendments

F314 Sch. 12 para. 4 omitted (1.10.1993) by virtue of 1993 c. 35, s. 307(1), Sch. 19 para. 154 and repealed (1.4.1994) by s. 307(3), Sch. 21 Pt.I of the same 1993 Act; S.I. 1993/1975, art. 9, Sch. 1; S.I. 1993/3106, art. 4, Sch.1

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The Marriage Act 1949 (c. 76)

- 5 (1) In section 3 of the Marriage Act 1949 (consent required to the marriage of a child by common licence or superintendent registrar’s certificate), in subsection (1) for the words “the Second Schedule to this Act” there shall be substituted “ subsection (1A) of this section” .
- (2) After that subsection there shall be inserted—
- “(1A) The consents are—
- (a) subject to paragraphs (b) to (d) of this subsection, the consent of—
 - (i) each parent (if any) of the child who has parental responsibility for him; and
 - (ii) each guardian (if any) of the child;
 - (b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);
 - (c) where a care order is in force with respect to the child, the consent of the local authority designated in the order (in addition to the consents mentioned in paragraph (a) of this subsection);
 - (d) where neither paragraph (b) nor (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).
- (1B) In this section “guardian of a child”, “parental responsibility”, “residence order” and “care order” have the same meaning as in the Children Act 1989.”

Commencement Information

196 Sch. 12 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Births and Deaths Registration Act 1953 (c. 20)

- 6 (1) Sections 10 and 10A of the Births and Deaths Registration Act 1953 (registration of father, and re-registration, where parents not married) shall be amended as follows.
- (2) In sections 10(1) and 10A(1) for paragraph (d) there shall be substituted—
- “(d) at the request of the mother or that person on production of—
- (i) a copy of a parental responsibility agreement made between them in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with section 4 of the Children Act 1989 and has not been brought to an end by an order of a court; or
- (e) at the request of the mother or that person on production of—
- (i) a certified copy of an order under section 4 of the Children Act 1989 giving that person parental responsibility for the child; and

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- (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or
- (f) at the request of the mother or that person on production of—
 - (i) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires that person to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court; or
- (g) at the request of the mother or that person on production of—
 - (i) a certified copy of any of the orders which are mentioned in subsection (1A) of this section which has been made in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end or discharged by an order of a court.”

(3) After sections 10(1) and 10A(1) there shall be inserted—

“(1A) The orders are—

- (a) an order under section 4 of the Family Law Reform Act 1987 that that person shall have all the parental rights and duties with respect to the child;
- (b) an order that that person shall have custody or care and control or legal custody of the child made under section 9 of the Guardianship of Minors Act 1971 at a time when such an order could only be made in favour of a parent;
- (c) an order under section 9 or 11B of that Act which requires that person to make any financial provision in relation to the child;
- (d) an order under section 4 of the Affiliation Proceedings Act 1957 naming that person as putative father of the child.”

(4) In section 10(2) for the words “or (d)” there shall be substituted “to (g)”.

(5) In section 10(3) for the words from ““relevant order”” to the end there shall be substituted

““parental responsibility agreement” has the same meaning as in the Children Act 1989”.

(6) In section 10A(2) in paragraphs (b) and (c) for the words “paragraph (d)” in both places where they occur there shall be substituted “any of paragraphs (d) to (g)”.

Commencement Information

I97 Sch. 12 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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The Army Act 1955 (c. 18)

- 7 In section 151 of the Army Act 1955 (deductions from pay for maintenance of wife or child), in subsection (1A)(a) for the words “in the care of a local authority in England or Wales” there shall be substituted “being looked after by a local authority in England or Wales (within the meaning of the Children Act 1989)”.

Commencement Information

F198 Sch. 12 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F315^g

Textual Amendments

F315 Sch. 12 para. 8 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch. (with art. 3(1))

The Air Force Act 1955 (c. 19)

- 9 Section 151(1A) of the Air Force Act 1955 (deductions from pay for maintenance of wife or child) shall have effect subject to the amendment that is set out in paragraph 7 in relation to section 151(1A) of the Army Act 1955.

Commencement Information

F199 Sch. 12 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F316¹⁰

Textual Amendments

F316 Sch. 12 para. 10 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch.3**; S.I. 1991/2719, **art. 2**,Sch (with art. 3(1))

The Sexual Offences Act 1956 (c. 69)

- 11 **F317**

Textual Amendments

F317 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Commencement Information

I100 Sch. 12 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

12 **F318**

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Textual Amendments

F318 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, Sch. 7; S.I. 2004/874, art. 2

Commencement Information

I101 Sch. 12 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

13 F319

Textual Amendments

F319 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, Sch. 7; S.I. 2004/874, art. 2

Commencement Information

I102 Sch. 12 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

14 F320

Textual Amendments

F320 Sch. 12 paras. 11-14 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, Sch. 7; S.I. 2004/874, art. 2

Commencement Information

I103 Sch. 12 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

15 Section 38 of that Act (power of court to divest person of authority over girl or boy in case of incest) shall cease to have effect.

Commencement Information

I104 Sch. 12 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

16 F321

Textual Amendments

F321 Sch. 12 para. 16 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, Sch. 7; S.I. 2004/874, art. 2

Commencement Information

I105 Sch. 12 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

17 After section 46 of that Act there shall be inserted—

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

“46A Meaning of “parental responsibility”.

In this Act “parental responsibility” has the same meaning as in the Children Act 1989.”

Commencement Information

I106 Sch. 12 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Naval Discipline Act 1957 (c. 53)

F322 18

Textual Amendments

F322 Sch. 12 para. 18 repealed (1. 1. 1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), Sch.3; S.I. 1991/2719, art. 2,Sch. (with art. 3(1))

The Children and Young Persons Act 1963 (c. 37)

19 Section 3 of the Children and Young Persons Act 1963 (children and young persons beyond control) shall cease to have effect.

Commencement Information

I107 Sch. 12 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Children and Young Persons Act 1969 (c. 54)

20 In section 5 of the Children and Young Persons Act 1969 (restrictions on criminal proceedings for offences by young persons), in subsection (2), for the words “section 1 of this Act” there shall be substituted “ Part IV of the Children Act 1989”

Commencement Information

I108 Sch. 12 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

F323 21

Textual Amendments

F323 Sch. 12 para. 21 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), Sch.13; S.I. 1992/333, art. 2(2), Sch.2.

F324 22

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Textual Amendments

F324 Sch. 12 para. 22 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

^{F325}23

Textual Amendments

F325 Sch. 12 para. 23 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

^{F326}24

Textual Amendments

F326 Sch. 12 para. 24 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**.

^{F327}25

Textual Amendments

F327 Sch. 12 para. 25 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 31, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I109 Sch. 12 para. 25 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

26 For section 23 of that Act (remand to care of local authorities etc.) there shall be substituted—

“23 Remand to local authority accommodation, committal of young persons of unruly character, etc.

- (1) Where a court—
 - (a) remands or commits for trial a child charged with homicide or remands a child convicted of homicide; or
 - (b) remands a young person charged with or convicted of one or more offences or commits him for trial or sentence,and he is not released on bail, then, unless he is a young person who is certified by the court to be of unruly character, the court shall remand him to local authority accommodation.
- (2) A court remanding a person to local authority accommodation shall designate the authority who are to receive him and that authority shall be the authority in whose area it appears to the court that—
 - (a) he resides; or
 - (b) the offence or one of the offences was committed.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.
- (4) The court shall not certify a young person as being of unruly character unless—
- (a) he cannot safely be remanded to local authority accommodation; and
 - (b) the conditions prescribed by order made by the Secretary of State under this subsection are satisfied in relation to him.
- (5) Where the court certifies that a young person is of unruly character, it shall commit him—
- (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
 - (b) to a prison, if it has not been so notified.
- (6) Where a young person is remanded to local authority accommodation, a court may, on the application of the designated authority, certify him to be of unruly character in accordance with subsection (4) of this section (and on so doing he shall cease to be remanded to local authority accommodation and subsection (5) of this section shall apply).
- (7) For the purposes of subsection (6) of this section,
“a court” means—
- (a) the court which remanded the young person; or
 - (b) any magistrates’ court having jurisdiction in the place where that person is for the time being,
- and in this section “court” and “magistrates’ court” include a justice.
- (8) This section has effect subject to—
- (a) section 37 of the Magistrates’ Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and
 - (b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),
- but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours.”

Commencement Information

1110 Sch. 12 para. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 27 (1) In section 32 of that Act (detention of absentees), for subsection (1A) there shall be substituted the following subsections—

- “(1A) If a child or young person is absent, without the consent of the responsible person—
- (a) from a place of safety to which he has been taken under section 16(3) of this Act; or
 - (b) from local authority accommodation—

Status: Point in time view as at 21/12/2018.

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- (i) in which he is required to live under section 12AA of this Act; or
- (ii) to which he has been remanded under section 23(1) of this Act,

he may be arrested by a constable anywhere in the United Kingdom or Channel Islands without a warrant.

(1B) A person so arrested shall be conducted to—

- (a) the place of safety;
 - (b) the local authority accommodation; or
 - (c) such other place as the responsible person may direct,
- at the responsible person’s expense.

(1C) In this section “the responsible person” means the person who made the arrangements under section 16(3) of this Act or, as the case may be, the authority designated under section 12AA or 23 of this Act.”

(2) In subsection (2B) of that section for the words “person referred to in subsection (1A) (a) or (b) (as the case may be) of this section” there shall be substituted “responsible person”.

Commencement Information

I111 Sch. 12 para. 27 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

28 In section 34(1) of that Act (transitional modifications of Part I for persons of specified ages)—

- (a) in paragraph (a), for the words “13(2) or 28(4) or (5)” there shall be substituted “or 13(2)”;

^{F328}(b)

Textual Amendments

F328 Sch. 12 para. 28(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 25](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Commencement Information

I112 Sch. 12 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

29 In section 70(1) of that Act (interpretation)—

- (a) after the definition of “local authority” there shall be inserted—

““local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989);

^{F329}

...

(b)

Status: Point in time view as at 21/12/2018.

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Textual Amendments

F329 Sch. 12 para. 29(b) and the preceding “and” repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Commencement Information

I113 Sch. 12 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 30 In section 73 of that Act (extent, etc.)—
 - (a) in subsection (4)(a) for “32(1), (3) and (4)” there shall be substituted “ 32(1) to (1C) and (2A) to (4)” ”; and
 - (b) in subsection (6) for “32(1), (1A)” there shall be substituted “ 32(1) to (1C)” ”.

Extent Information

E1 Sch. 12 para. 30(a) extends to Scotland see s. 108(11)

Commencement Information

I114 Sch. 12 para. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Matrimonial Causes Act 1973 (c. 18)

F330³¹

Textual Amendments

F330 Sch. 12 para. 31 omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), ss. 17(5), 139(6); S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)

- 32 In section 42 of that Act, subsection (3) (declaration by court that party to marriage unfit to have custody of children of family) shall cease to have effect.

Commencement Information

I115 Sch. 12 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 33 In section 52(1) of that Act (interpretation), in the definition of “child of the family”, for the words “has been boarded-out with those parties” there shall be substituted “ is placed with those parties as foster parents” ”.

Commencement Information

I116 Sch. 12 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The National Health Service Act 1977 (c. 49)

34 F331

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Textual Amendments

F331 Sch. 12 para. 34 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

The Child Care Act 1980 (c. 5)

- 35 Until the repeal of the Child Care Act 1980 by this Act takes effect, the definition of “parent” in section 87 of that Act shall have effect as if it applied only in relation to Part I and sections 13, 24, 64 and 65 of that Act (provisions excluded by section 2(1)(f) of the ^{M17}Family Law Reform Act 1987 from the application of the general rule in that Act governing the meaning of references to relationships between persons).

Marginal Citations

M17 1987 c. 42.

The Education Act 1981 (c. 60)

- ^{F332}36

Textual Amendments

F332 Sch. 12 para. 36 repealed(1.9.1994) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 154, **Sch. 21 Pt. I**; S.I. 1994/2038, art. 3, **Sch. 2**, Appendix

The Child Abduction Act 1984 (c. 37)

- 37 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction by parent, etc.) shall be amended as follows.
- (2) For subsections (2) to (4) there shall be substituted—
- “(2) A person is connected with a child for the purposes of this section if—
- (a) he is a parent of the child; or
 - (b) in the case of a child whose parents were not married to each other at the time of his birth, there are reasonable grounds for believing that he is the father of the child; or
 - (c) he is a guardian of the child; or
 - (d) he is a person in whose favour a residence order is in force with respect to the child; or
 - (e) he has custody of the child.
- (3) In this section “the appropriate consent”, in relation to a child, means—
- (a) the consent of each of the following—
 - (i) the child’s mother;
 - (ii) the child’s father, if he has parental responsibility for him;
 - (iii) any guardian of the child;

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- (iv) any person in whose favour a residence order is in force with respect to the child;
 - (v) any person who has custody of the child; or
 - (b) the leave of the court granted under or by virtue of any provision of Part II of the Children Act 1989; or
 - (c) if any person has custody of the child, the leave of the court which awarded custody to him.
- (4) A person does not commit an offence under this section by taking or sending a child out of the United Kingdom without obtaining the appropriate consent if—
- (a) he is a person in whose favour there is a residence order in force with respect to the child, and
 - (b) he takes or sends him out of the United Kingdom for a period of less than one month.
- (4A) Subsection (4) above does not apply if the person taking or sending the child out of the United Kingdom does so in breach of an order under Part II of the Children Act 1989.”
- (3) In subsection (5) for the words from “but” to the end there shall be substituted—
- “(5A) Subsection (5)(c) above does not apply if—
- (a) the person who refused to consent is a person—
 - (i) in whose favour there is a residence order in force with respect to the child; or
 - (ii) who has custody of the child; or
 - (b) the person taking or sending the child out of the United Kingdom is, by so acting, in breach of an order made by a court in the United Kingdom.”
- (4) For subsection (7) there shall be substituted—
- “(7) For the purposes of this section—
- (a) “guardian of a child”, “residence order” and “parental responsibility” have the same meaning as in the Children Act 1989; and
 - (b) a person shall be treated as having custody of a child if there is in force an order of a court in the United Kingdom awarding him (whether solely or jointly with another person) custody, legal custody or care and control of the child.”
- (5) In subsection (8) for the words from “or voluntary organisation” to “custodianship proceedings or” there shall be substituted “detained in a place of safety, remanded to a local authority accommodation or the subject of” ”.

Commencement Information

I117 Sch. 12 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 38 (1) In section 2 of that Act (offence of abduction of child by other persons), in subsection (1) for the words from “Subject” to “above” there shall be substituted “

Status: Point in time view as at 21/12/2018.

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Subject to subsection (3) below, a person, other than one mentioned in subsection (2) below." ”

(2) For subsection (2) of that section there shall be substituted—

“(2) The persons are—

- (a) where the father and mother of the child in question were married to each other at the time of his birth, the child’s father and mother;
- (b) where the father and mother of the child in question were not married to each other at the time of his birth, the child’s mother; and
- (c) any other person mentioned in section 1(2)(c) to (e) above.

(3) In proceedings against any person for an offence under this section, it shall be a defence for that person to prove—

- (a) where the father and mother of the child in question were not married to each other at the time of his birth—
 - (i) that he is the child’s father; or
 - (ii) that, at the time of the alleged offence, he believed, on reasonable grounds, that he was the child’s father; or
- (b) that, at the time of the alleged offence, he believed that the child had attained the age of sixteen.”

Commencement Information

I118 Sch. 12 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

39 At the end of section 3 of that Act (construction of references to taking, sending and detaining) there shall be added “and

- (d) references to a child’s parents and to a child whose parents were (or were not) married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987 (which extends their meaning).”

Commencement Information

I119 Sch. 12 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

40 (1) The Schedule to that Act (modifications of section 1 for children in certain cases) shall be amended as follows.

(2) In paragraph 1(1) for the words “or voluntary organisation” there shall be substituted “within the meaning of the Children Act 1989” ”.

(3) For paragraph 2(1) there shall be substituted—

“(1) This paragraph applies in the case of a child who is—

- (a) detained in a place of safety under section 16(3) of the Children and Young Persons Act 1969; or
- (b) remanded to local authority accommodation under section 23 of that Act.”

(4) In paragraph 3(1)—

Status: Point in time view as at 21/12/2018.

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- (a) in paragraph (a) for the words “section 14 of the Children Act 1975” there shall be substituted “ section 18 of the Adoption Act 1976” ”; and
 - (b) in paragraph (d) for the words “section 25 of the Children Act 1975 or section 53 of the Adoption Act 1958” there shall be substituted “ section 55 of the Adoption Act 1976” ”.
- (5) In paragraph 3(2)(a)—
- (a) in sub-paragraph (i), for the words from “order or,” to “Children Act 1975” there shall be substituted “ section 18 order or, if the section 18 order has been varied under section 21 of that Act so as to give parental responsibility to another agency” ”, and
 - (b) in sub-paragraph (ii), for the words “(c) or (e)” there shall be substituted “ or (c)” ”.
- (6) At the end of paragraph 3 there shall be added—
- “(3) Sub-paragraph (2) above shall be construed as if the references to the court included, in any case where the court is a magistrates’ court, a reference to any magistrates’ court acting for the same area as that court”.
- (7) For paragraph 5 there shall be substituted—
- “5 In this Schedule—
- (a) “adoption agency” and “adoption order” have the same meaning as in the Adoption Act 1976; and
 - (b) “area”, in relation to a magistrates’ court, means the petty sessions area (within the meaning of the Justices of the Peace Act 1979) for which the court is appointed.”

Commencement Information

I120 Sch. 12 para. 40 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Foster Children (Scotland) Act 1984 (c. 56)

- 41 In section 1 of the Foster Children (Scotland) Act 1984 (definition of foster child)—
- (a) for the words “he is— (a)” there shall be substituted “ (a) he is” ”; and
 - (b) the words “for a period of more than 6 days” and the words from “The period” to the end shall cease to have effect..

Commencement Information

I121 Sch. 12 para. 41 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 42 In section 2(2) of that Act (exceptions to section 1), for paragraph (f) there shall be substituted—
- “(f) if he has been in that person’s care for a period of less than 28 days and that person does not intend to undertake his care for any longer period.”

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Commencement Information

I122 Sch. 12 para. 42 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 43 In section 7(1) of that Act (persons disqualified from keeping foster children)—
- (a) the word “or” at the end of paragraph (e) shall be omitted; and
 - (b) after paragraph (f) there shall be inserted “or
 - (g) he is disqualified from fostering a child privately (within the meaning of the Children Act 1989) by regulations made under section 68 of that Act.”.

Commencement Information

I123 Sch. 12 para. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 44 In section 2(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (circumstances in which authorised representative has right to visit etc. disabled person), after paragraph (d) there shall be inserted—
- “(dd) in accommodation provided by any educational establishment.”

Commencement Information

I124 Sch. 12 para. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Legal Aid Act 1988 (c. 34)

F333 45

Textual Amendments

F333 Sch. 12 para. 45 repealed (1.4.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. I (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(i), Sch.

SCHEDULE 13

Section 108(5).

CONSEQUENTIAL AMENDMENTS

The Wills Act 1837 (c. 26)

- 1 In section 1 of the Wills Act 1837 (interpretation), in the definition of “will”, for the words “and also to a disposition by will and testament or devise of the custody and tuition of any child” there shall be substituted “ and also to an appointment by will of a guardian of a child” ”.

Status: Point in time view as at 21/12/2018.

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Commencement Information

I125 Sch. 13 para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Children and Young Persons Act 1933 (c. 12)

- 2 In section 1(1) of the Children and Young Persons Act 1933 (cruelty to persons under sixteen) for the words “has the custody, charge or care of” there shall be substituted “has responsibility for”.

Commencement Information

I126 Sch. 13 para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 3 In the following sections of that Act—
- (a) 3(1) (allowing persons under sixteen to be in brothels);
 - (b) 4(1) and (2) (causing or allowing persons under sixteen to be used for begging);
 - (c) 11 (exposing children under twelve to risk of burning); and
 - (d) 25(1) (restrictions on persons under eighteen going abroad for the purpose of performing for profit),
- for the words “the custody, charge or care of” there shall, in each case, be substituted “responsibility for”.

Commencement Information

I127 Sch. 13 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

F334⁴

Textual Amendments

F334 Sch. 13 para. 4 repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 155, **Sch. 21 Pt. I**; S.I. 1993/1975, **art. 9, Sch.1**

- 5 For section 17 of that Act (interpretation of Part I) there shall be substituted the following section—

“17 Interpretation of Part I.

- (1) For the purposes of this Part of this Act, the following shall be presumed to have responsibility for a child or young person—
- (a) any person who—
 - (i) has parental responsibility for him (within the meaning of the Children Act 1989); or
 - (ii) is otherwise legally liable to maintain him; and
 - (b) any person who has care of him.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (2) A person who is presumed to be responsible for a child or young person by virtue of subsection (1)(a) shall not be taken to have ceased to be responsible for him by reason only that he does not have care of him.”

Commencement Information

I128 Sch. 13 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 6 (1) In section 34 of that Act (attendance at court of parent of child or young person charged with an offence etc.), in subsection (1) after the word “offence” there shall be inserted “ is the subject of an application for a care or supervision order under Part IV of the Children Act 1989” ”.
- (2) In subsection (7) of that section after the words “Children and Young Persons Act 1969” there shall be inserted “ or Part IV of the Children Act 1989” ”.
- (3) After subsection (7) of that section there shall be inserted—
- “(7A) If it appears that at the time of his arrest the child or young person is being provided with accommodation by or on behalf of a local authority under section 20 of the Children Act 1989, the local authority shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so.”

Commencement Information

I129 Sch. 13 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 7 In section 107(1) of that Act (interpretation)—
- (a) in the definition of “guardian”, for the words “charge of or control over” there shall be substituted “ care of” ”;
- (b) for the definition of legal guardian there shall be substituted—
- ““legal guardian”, in relation to a child or young person, means a guardian of a child as defined in the Children Act 1989”.

Commencement Information

I130 Sch. 13 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Education Act 1944 (c. 31)

F335g

Textual Amendments

F335 Sch. 13 para. 8 repealed (1.10.1993) by 1993 c. 35, ss. 303(4), 307(1)(3), Sch. 19 para. 155, Sch. 21 Pt. I; S.I. 1993/1975, art. 3, Sch.1

F336g

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Textual Amendments

F336 Sch. 13 paras. 9-10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2)(3), Sch. 38 Pt. I, **Sch. 39** (with s. 1(4)).

F337 10

Textual Amendments

F337 Sch. 13, paras. 9, 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2)(3), **Sch. 38 Pt.I**, (with s. 1(4), Sch. 39, paras. 5, 6, 8)

The National Assistance Act 1948 (c. 29)

- 11 (1) In section 21(1)(a) of the National Assistance Act 1948 (persons for whom local authority is to provide residential accommodation) after the word “persons” there shall be inserted “aged eighteen or over”.
- (2) In section 29(1) of that Act (welfare arrangements for blind, deaf, dumb and crippled persons) after the words “that is to say persons” and after the words “and other persons” there shall, in each case, be inserted “aged eighteen or over”.

Commencement Information

I131 Sch. 13 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)

- 12 For section 2(1)(d) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (cases in which leave of the appropriate court is required before enforcing certain orders for the payment of money), there shall be substituted—
- “(d) an order for alimony, maintenance or other payment made under sections 21 to 33 of the Matrimonial Causes Act 1973 or made, or having effect as if made, under Schedule 1 to the Children Act 1989.”

Commencement Information

I132 Sch. 13 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Mines and Quarries Act 1954 (c. 70)

F338 13

Textual Amendments

F338 Sch. 13 para. 13 repealed (1.11.1996) by 1996 c. 36, s. 105(5), **Sch. 5**, Table (with s. 103(1)); S.I. 1996/2203, **art. 3**, **Sch.** Table

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

The Administration of Justice Act 1960 (c. 65)

- 14 In section 12 of the Administration of Justice Act 1960 (publication of information relating to proceedings in private), in subsection (1) for paragraph (a) there shall be substituted—
- “(a) where the proceedings—
- (i) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors;
 - (ii) are brought under the Children Act 1989; or
 - (iii) otherwise relate wholly or mainly to the maintenance or upbringing of a minor;”.

Commencement Information

I133 Sch. 13 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Factories Act 1961 (c. 34)

- 15 In section 176(1) of the Factories Act 1961 (interpretation), in the definition of “parent”, for the words from “or guardian” to first “young person” there shall be substituted “ of a child or young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children Act 1989)” ”.

Commencement Information

I134 Sch. 13 para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Criminal Justice Act 1967 (c. 80)

- 16 In section 67(1A)(c) of the Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) for the words “in the care of a local authority” there shall be substituted “ remanded to local authority accommodation.” ”

Commencement Information

I135 Sch. 13 para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Health Services and Public Health Act 1968 (c. 46)

- 17 (1) In section 64(3)(a) of the Health Services and Public Health Act 1968 (meaning of “relevant enactments” in relation to power of Minister of Health or Secretary of State to provide financial assistance), for sub-paragraph (xix) inserted by paragraph 19 of Schedule 5 to the ^{M18}Child Care Act 1980 there shall be substituted—
- “(xx) the Children Act 1989.”
- (2) In section 65(3)(b) of that Act (meaning of “relevant enactments” in relation to power of local authority to provide financial and other assistance), for sub-paragraph (xx)

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inserted by paragraph 20 of Schedule 5 to the Child Care Act 1980 there shall be substituted—

“(xxi) the Children Act 1989.”

Commencement Information

I136 Sch. 13 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M18 1980 c. 5.

The Social Work (Scotland) Act 1968 (c. 49)

18 In section 2(2) of the Social Work (Scotland) Act 1968 (matters referred to social work committee) after paragraph (j) there shall be inserted—

“(k) section 19 and Part X of the Children Act 1989,”.

Commencement Information

I137 Sch. 13 para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

19 In section 5(2)(c) of that Act (power of Secretary of State to make regulations) for the words “and (j)” there shall be substituted “to (k)”.

Commencement Information

I138 Sch. 13 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

20 In section 21(3) of that Act (mode of provision of accommodation and maintenance) for the words “section 21 of the Child Care Act 1980” there shall be substituted “section 23 of the Children Act 1989”.

Commencement Information

I139 Sch. 13 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

21 In section 74(6) of that Act (parent of child in residential establishment moving to England or Wales) for the words from “Children and Young Persons Act 1969” to the end there shall be substituted “Children Act 1989, but as if section 31(8) were omitted”.

Commencement Information

I140 Sch. 13 para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

22 In section 75(2) of that Act (parent of child subject to care order etc. moving to Scotland), for the words “Children and Young Persons Act 1969” there shall be substituted “Children Act 1989”.

Status: Point in time view as at 21/12/2018.

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Commencement Information

I141 Sch. 13 para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 23 In section 86(3) of that Act (meaning of ordinary residence for purpose of adjustments between authority providing accommodation and authority of area of residence), the words “the Child Care Act 1980 or” shall be omitted and after the words “education authority” there shall be inserted “ or placed with local authority foster parents under the Children Act 1989” ”.

Commencement Information

I142 Sch. 13 para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Civil Evidence Act 1968 (c. 64)

F339²⁴

Textual Amendments

F339 Sch. 13 para. 24 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 2(2), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I143 Sch. 13 para. 24 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Administration of Justice Act 1970 (c. 31)

F340²⁵

Textual Amendments

F340 Sch. 13 para. 25 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 6(2), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I144 Sch. 13 para. 25 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Local Authority Social Services Act 1970 (c. 42)

- 26 (1) In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to social service committee)—
- (a) in the entry relating to the Mental Health Act 1959, for the words “sections 8 and 9” there shall be substituted “ section 8” ”; and
 - (b) ^{F341}
- (2) At the end of that Schedule there shall be added—

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“Children Act 1989.

The whole Act, in so far as it confers functions on a local authority within the meaning of that Act.

Welfare reports.

Consent to application for residence order in respect of child in care.

Family assistance orders.

Functions under Part III of the Act (local authority support for children and families).

Care and supervision.

Protection of children.

Functions in relation to community homes, voluntary homes and voluntary organisations, registered children’s homes, private arrangements for fostering children, child minding and day care for young children.

Inspection of children’s homes on behalf of Secretary of State.

Research and returns of information.

Functions in relation to children accommodated by health authorities and local education authorities or in residential care, nursing or mental nursing homes or in independent schools.”

Textual Amendments

F341 Sch. 13 para. 26(1)(b) repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(2), **Sch. 3 Pt. 2**

Commencement Information

I145 Sch. 13 para. 26 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828](#), **art. 3(2)**

The Chronically Sick and Disabled Persons Act 1970 (c. 44)

27 After section 28 of the Chronically Sick and Disabled Persons Act 1970 there shall be inserted—

“28A Application of Act to authorities having functions under the Children Act 1989.

This Act applies with respect to disabled children in relation to whom a local authority have functions under Part III of the Children Act 1989 as it applies in relation to persons to whom section 29 of the National Assistance Act 1948 applies.”

Status: Point in time view as at 21/12/2018.

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Commencement Information

I146 Sch. 13 para. 27 wholly in force at 14.10.1991 see s. 108(2)and(3) and (S.I. 1991/828 art. 3(2))

The Courts Act 1971 (c. 23)

- 28 In Part I of Schedule 9 to the Courts Act 1971 (substitution of references to Crown Court), in the entry relating to the Children and Young Persons Act 1969, for the words “Sections 2(12), 3(8), 16(8), 21(4)(5)” there shall be substituted “ Section 16(8).” ”.

Commencement Information

I147 Sch. 13 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Attachment of Earnings Act 1971 (c. 32)

- 29 In Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which that Act applies), in paragraph 7, for the words “section 47 or 51 of the Child Care Act 1980” there shall be substituted “ paragraph 23 of Schedule 2 to the Children Act 1989” ”.

Commencement Information

I148 Sch. 13 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Tribunals and Inquiries Act 1971 (c. 62)

^{F342}30

Textual Amendments

F342 Sch. 13 para. 30 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), Sch. 4 Pt. I

The Local Government Act 1972 (c. 70)

- 31 (1) In section 102(1) of the Local Government Act 1972 (appointment of committees) for the words “section 31 of the Child Care Act 1980” there shall be substituted “ section 53 of the Children Act 1989” ”.
- (2) In Schedule 12A to that Act (access to information: exempt information), in Part III (interpretation), in paragraph 1(1)(b) for the words “section 20 of the Children and Young Persons Act 1969” there shall be substituted “ section 31 of the Children Act 1989” ”.

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Commencement Information

I149 Sch. 13 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Employment of Children Act 1973 (c. 24)

32

F343

Textual Amendments

F343 Sch. 13 para. 32 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), ss. 1(1), Sch. 1 Pt. 11

Commencement Information

I150 Sch. 13 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Domicile and Matrimonial Proceedings Act 1973 (c. 45)

33

(1) In Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (proceedings in divorce etc. stayed by reference to proceedings in other jurisdiction), paragraph 11(1) shall be amended as follows—

- (a) at the end of the definition of “lump sum” there shall be added “or an order made in equivalent circumstances under Schedule 1 to the Children Act 1989 and of a kind mentioned in paragraph 1(2)(c) of that Schedule”;
- (b) in the definition of “relevant order”, at the end of paragraph (b), there shall be added “or an order made in equivalent circumstances under Schedule 1 to the Children Act 1989 and of a kind mentioned in paragraph 1(2)(a) or (b) of that Schedule”;
- (c) in paragraph (c) of that definition, after the word “children)” there shall be inserted “or a section 8 order under the Children Act 1989”; and
- (d) in paragraph (d) of that definition for the words “the custody, care or control” there shall be substituted “care”.

(2) In paragraph 11(3) of that Schedule—

- (a) the word “four” shall be omitted; and
- (b) for the words “the custody of a child and the education of a child” there shall be substituted “or any provision which could be made by a section 8 order under the Children Act 1989”.

Commencement Information

I151 Sch. 13 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Powers of Criminal Courts Act 1973 (c. 62)

F344³⁴

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Textual Amendments

F344 Sch. 13 para. 34 repealed (5.2.1994) by 1993 c. 47, ss. 32(3), 33(2), Sch. 4

The Rehabilitation of Offenders Act 1974 (c. 53)

- 35 (1) Section 7(2) of the Rehabilitation of Offenders Act 1974 (limitations on rehabilitation under the Act) shall be amended as follows.
- (2) For paragraph (c) there shall be substituted—
- “(c) in any proceedings relating to adoption, the marriage of any minor, the exercise of the inherent jurisdiction of the High Court with respect to minors or the provision by any person of accommodation, care or schooling for minors;
 - (cc) in any proceedings brought under the Children Act 1989;”
- (3) For paragraph (d) there shall be substituted—
- “(d) in any proceedings relating to the variation or discharge of a supervision order under the Children and Young Persons Act 1969, or on appeal from any such proceedings”.

Commencement Information

I152 Sch. 13 para. 35 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

- 36 For section 8 of the Domestic Proceedings and Magistrates' Courts Act 1978 (orders for the custody of children) there shall be substituted—

“8 Restrictions on making of orders under this Act: welfare of children.

Where an application is made by a party to a marriage for an order under section 2, 6 or 7 of this Act, then, if there is a child of the family who is under the age of eighteen, the court shall not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children Act 1989 with respect to the child.”

Commencement Information

I153 Sch. 13 para. 36 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 37 In section 19(3A)(b) (interim orders) for the words “subsections (2) and” there shall be substituted “ subsection” ”.

Commencement Information

I154 Sch. 13 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

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38 For section 20(12) of that Act (variation and revocation of orders for periodical payments) there shall be substituted—

- “(12) An application under this section may be made—
- (a) where it is for the variation or revocation of an order under section 2, 6, 7 or 19 of this Act for periodical payments, by either party to the marriage in question; and
 - (b) where it is for the variation of an order under section 2(1)(c), 6 or 7 of this Act for periodical payments to or in respect of a child, also by the child himself, if he has attained the age of sixteen.”

Commencement Information

I155 Sch. 13 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

39 (1) For section 20A of that Act (revival of orders for periodical payments) there shall be substituted—

“20A Revival of orders for periodical payments.

(1) Where an order made by a magistrates’ court under this Part of this Act for the making of periodical payments to or in respect of a child (other than an interim maintenance order) ceases to have effect—

- (a) on the date on which the child attains the age of sixteen, or
- (b) at any time after that date but before or on the date on which he attains the age of eighteen,

the child may apply to the court which made the order for an order for its revival.

(2) If on such an application it appears to the court that—

- (a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or
- (b) there are special circumstances which justify the making of an order under this subsection,

the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(3) Any order revived under this section may be varied or revoked under section 20 in the same way as it could have been varied or revoked had it continued in being.”

Commencement Information

I156 Sch. 13 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

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Textual Amendments

F345 Sch. 13 para. 40 repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 32, **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**

Commencement Information

I157 Sch. 13 para. 40 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

- 41 (1) In section 25 of that Act (effect on certain orders of parties living together), in subsection (1)(a) for the words “6 or 11(2)” there shall be substituted “ or 6” ”.
- (2) In subsection (2) of that section—
- (a) in paragraph (a) for the words “6 or 11(2)” there shall be substituted “ or 6” ”; and
 - (b) after paragraph (a) there shall be inserted “ or” ”.

Commencement Information

I158 Sch. 13 para. 41 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

^{F346}42

Textual Amendments

F346 Sch. 13 para. 42 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 210** Table; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 43 In section 88(1) of that Act (interpretation)—
- (a) in the definition of “child”, for the words from “an illegitimate” to the end there shall be substituted “ a child whose father and mother were not married to each other at the time of his birth” ”; and
 - (b) in the definition of “child of the family”, for the words “being boarded-out with those parties” there shall be substituted “ placed with those parties as foster parents” ”.

Commencement Information

I159 Sch. 13 para. 43 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

The Magistrates’ Courts Act 1980 (c. 43)

44 ^{F347}(1)

- (2) For section 62(5) of that Act (payments to children) there shall be substituted—
- “(5) In this section references to the person with whom a child has his home—
- (a) in the case of any child who is being looked after by a local authority (within the meaning of section 22 of the Children Act 1989), are references to that local authority; and

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- (b) in any other case, are references to the person who, disregarding any absence of the child at a hospital or boarding school and any other temporary absence, has care of the child.”.

Textual Amendments

F347 Sch. 13 para. 44(1) repealed (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(2), Sch.3; S.I. 1992/455, art.2.

Commencement Information

I160 Sch. 13 para. 44 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The [F348 Senior Courts Act 1981] (c. 54)

Textual Amendments

F348 Sch. 13 para. 45 cross-heading: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), Sch. 11 para. 1(2); S.I. 2009/1604, art. 2(d)

- 45 (1) In section 18 of the [F349 Senior Courts Act 1981] (restrictions on appeals to Court of Appeal)—
- (a) in subsection (1)(h)(i), for the word “custody” there shall be substituted “residence” ”; and
 - (b) in subsection (1)(h)(ii) for the words “access to”, in both places, there shall be substituted “ contact with” ”.
- (2) In section 41 of that Act (wards of court), the following subsection shall be inserted after subsection (2)—
- “(2A) Subsection (2) does not apply with respect to a child who is the subject of a care order (as defined by section 105 of the Children Act 1989).”
- (3) In Schedule 1 to that Act (distribution of business in High Court), for paragraph 3(b) (ii) there shall be substituted—
- “(ii) the exercise of the inherent jurisdiction of the High Court with respect to minors, the maintenance of minors and any proceedings under the Children Act 1989, except proceedings solely for the appointment of a guardian of a minor’s estate;”.

Textual Amendments

F349 Sch. 13 para. 45: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), Sch. 11 para. 1(2); S.I. 2009/1604, art. 2(d)

Commencement Information

I161 Sch. 13 para. 45 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

The Armed Forces Act 1981 (c. 55)

- 46 In section 14 of the Armed Forces Act 1981 (temporary removal to, and detention in, place of safety abroad or in the United Kingdom of service children in need of care and control), in subsection (9A) for the words “the Children and Young Persons Act 1933, the Children and Young Persons Act 1969” there shall be substituted “the Children Act 1989”.

Commencement Information

I162 Sch. 13 para. 46 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

- 47 In paragraph 5(a) of Schedule 5 to the Civil Jurisdiction and Judgments Act 1982 (maintenance and similar payments excluded from Schedule 4 to that Act) for the words “section 47 or 51 of the Child Care Act 1980” there shall be substituted “paragraph 23 of Schedule 2 to the Children Act 1989”.

Commencement Information

I163 Sch. 13 para. 47 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Mental Health Act 1983 (c. 20)

- 48 (1) For section 27 of the Mental Health Act 1983 (children and young persons in care of local authority) there shall be substituted the following section—

“27 Children and young persons in care.

Where—

- (a) a patient who is a child or young person is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989; or
- (b) the rights and powers of a parent of a patient who is a child or young person are vested in a local authority by virtue of section 16 of the Social Work (Scotland) Act 1968,

the authority shall be deemed to be the nearest relative of the patient in preference to any person except the patient’s husband or wife (if any).”

- (2) Section 28 of that Act (nearest relative of minor under guardianship, etc.) is amended as mentioned in sub-paragraphs (3) and (4).

- (3) For subsection (1) there shall be substituted—

“(1) Where—

- (a) a guardian has been appointed for a person who has not attained the age of eighteen years; or
- (b) a residence order (as defined by section 8 of the Children Act 1989) is in force with respect to such a person,

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the guardian (or guardians, where there is more than one) or the person named in the residence order shall, to the exclusion of any other person, be deemed to be his nearest relative.”

(4) For subsection (3) there shall be substituted—

“(3) In this section “guardian” does not include a guardian under this Part of this Act.”

(5) ^{F350}

Textual Amendments
F350 Sch. 13 Para. 48(5) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 9](#); [S.I. 2008/1900, art. 2\(p\)](#) (with art. 3, Sch.)

Commencement Information
I164 Sch. 13 para. 48 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

The Registered Homes Act 1984 (c. 23)

^{F351}49

Textual Amendments
F351 Sch. 13 para. 49 repealed (1.4.2002) by [2000 c. 14, s. 117\(2\)](#), [Sch. 6](#); [S.I. 2001/4150, art. 3\(3\)\(c\)\(viii\)](#) (subject to transitional provision in [art. 4](#) of the commencing [S.I.](#) and to the amendment of [art. 3](#) by [S.I. 2002/1493, art. 6](#)); [S.I. 2002/920, art. 3\(3\)\(g\)](#) (with [art 3\(5\)-\(10\)](#) and transitional provisions in [Schs. 1-3](#))

The Mental Health (Scotland) Act 1984 (c. 36)

50 ^{F352}

Textual Amendments
F352 Sch. 13 para. 50 repealed (5.10.2005 for S.) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 331, [Sch. 5 Pt. 1](#); [S.S.I. 2005/161, art. 3](#) (as amended by [S.S.I. 2005/375, art. 2](#))

Commencement Information
I165 Sch. 13 para. 50 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

The Matrimonial and Family Proceedings Act 1984 (c. 42)

51 In section 38(2)(b) of the Matrimonial and Family Proceedings Act 1984 (transfer of family proceedings from High Court to county court) after the words “a ward of court” there shall be inserted “ or any other proceedings which relate to the exercise of the inherent jurisdiction of the High Court with respect to minors” .

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Commencement Information

I166 Sch. 13 para. 51 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Police and Criminal Evidence Act 1984 (c. 60)

- 52 In section 37(14) of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge) after the words “Children and Young Persons Act 1969” there shall be inserted “ or in Part IV of the Children Act 1989” ”.

Commencement Information

I167 Sch. 13 para. 52 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 53 ^{F353}(1)

- (2) After that subsection there shall be inserted—

“(6A) In this section “local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989).

(6B) Where an arrested juvenile is moved to local authority accommodation under subsection (6) above, it shall be lawful for any person acting on behalf of the authority to detain him.”.

- (3) In subsection (8) of that section for the words “Children and Young Persons Act 1969” there shall be substituted “ Children Act 1989” ”.

Textual Amendments

F353 Sch. 13 para. 53(1) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), Sch.13; S.I. 1992/333, art. 2(2), Sch.2.

Commencement Information

I168 Sch. 13 para. 53 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 54 In section 39(4) of that Act (responsibilities in relation to persons detained) for the words “transferred to the care of a local authority in pursuance of arrangements made” there shall be substituted “ moved to local authority accommodation” ”.

Commencement Information

I169 Sch. 13 para. 54 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 55 In Schedule 2 to that Act (preserved powers of arrest) in the entry relating to the Children and Young Persons Act 1969 for the words “Sections 28(2) and” there shall be substituted “ Section” ”.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Commencement Information

I170 Sch. 55 para. 55 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Surrogacy Arrangements Act 1985 (c. 49)

- 56 In section 1(2)(b) of the Surrogacy Arrangements Act 1985 (meaning of “surrogate mother”, etc.) for the words “the parental rights being exercised” there shall be substituted “parental responsibility being met”.

Commencement Information

I171 Sch. 13 para. 56 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Child Abduction and Custody Act 1985 (c. 60)

- 57 (1) In section 9(a) and 20(2)(a) of the Child Abduction and Custody Act 1985 (orders with respect to which court’s powers suspended), for the words “any other order under section 1(2) of the Children and Young Persons Act 1969” there shall be substituted “a supervision order under section 31 of the Children Act 1989”.
- (2) At the end of section 27 of that Act (interpretation), there shall be added—
- “(4) In this Act a decision relating to rights of access in England and Wales means a decision as to the contact which a child may, or may not, have with any person.”
- (3) In Part I of Schedule 3 to that Act (orders in England and Wales which are custody orders for the purposes of the Act), for paragraph 1 there shall be substituted—
- “1 The following are the orders referred to in section 27(1) of this Act—
- (a) a care order under the Children Act 1989 (as defined by section 31(11) of that Act, read with section 105(1) and Schedule 14);
 - (b) a residence order (as defined by section 8 of the Act of 1989); and
 - (c) any order made by a court in England and Wales under any of the following enactments—
 - (i) section 9(1), 10(1)(a) or 11(a) of the Guardianship of Minors Act 1971;
 - (ii) section 42(1) or (2) or 43(1) of the Matrimonial Causes Act 1973;
 - (iii) section 2(2)(b), 4(b) or (5) of the Guardianship Act 1973 as applied by section 34(5) of the Children Act 1975;
 - (iv) section 8(2)(a), 10(1) or 19(1)(ii) of the Domestic Proceedings and Magistrates Courts Act 1978;
 - (v) section 26(1)(b) of the Adoption Act 1976.”

Status: Point in time view as at 21/12/2018.

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Commencement Information

I172 Sch. 13 para. 57 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 58 In section 1(3) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (circumstances in which regulations may provide for the appointment of authorised representatives of disabled persons)—
- (a) in paragraph (a), for the words “parent or guardian of a disabled person under the age of sixteen” there shall be substituted—
- “(i) the parent of a disabled person under the age of sixteen, or
- (ii) any other person who is not a parent of his but who has parental responsibility for him”; and
- (b) in paragraph (b), for the words “in the care of” there shall be substituted “looked after by”.

Commencement Information

I173 Sch. 13 para. 58 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 59 (1) Section 2 of that Act (circumstances in which authorised representative has right to visit etc. disabled person) shall be amended as follows.
- (2) In subsection (3)(a) for the words from second “the” to “by” there shall be substituted “for the words “if so requested by the disabled person” there shall be substituted “if so requested by any person mentioned in section 1(3)(a)(i) or (ii)”>.”
- (3) In subsection (5) after paragraph (b) there shall be inserted—
- “(bb) in accommodation provided by or on behalf of a local authority under Part III of the Children Act 1989, or”.
- (4) After paragraph (c) of subsection (5) there shall be inserted—
- “(cc) in accommodation provided by a voluntary organisation in accordance with arrangements made by a local authority under section 17 of the Children Act 1989, or”.

Commencement Information

I174 Sch. 13 para. 59 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 60 In section 5(7)(b) of that Act (disabled persons leaving special education) for the word “guardian” there shall be substituted “other person who is not a parent of his but who has parental responsibility for him”.

Commencement Information

I175 Sch. 13 para. 60 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

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- 61 (1) In section 16 of that Act (interpretation) in the definition of “disabled person”, in paragraph (a) for the words from “means” to “applies” there shall be substituted “means—
 - (i) in the case of a person aged eighteen or over, a person to whom section 29 of the 1948 Act applies, and
 - (ii) in the case of a person under the age of eighteen, a person who is disabled within the meaning of Part III of the Children Act 1989”.
- (2) After the definition of “parent” in that section there shall be inserted—

““parental responsibility” has the same meaning as in the Children Act 1989.”

F354(3)

F354(4)

Textual Amendments
F354 Sch. 13 para. 61(3)(4) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **122**

Commencement Information
I176 Sch. 13 para. 61 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

The Family Law Act 1986 (c. 55)

- 62 (1) The Family Law Act 1986 shall be amended as follows.
- (2) Subject to paragraphs 63 to 71, in Part I—
 - (a) for the words “custody order”, in each place where they occur, there shall be substituted “ Part I order” ”;
 - (b) for the words “proceedings with respect to the custody of”, in each place where they occur, there shall be substituted “ Part I proceedings with respect to” ”; and
 - (c) for the words “matters relating to the custody of”, in each place where they occur, there shall be substituted “ Part I matters relating to” ”.
- (3) For section 42(7) (general interpretation of Part I) there shall be substituted—

“(7) In this Part—

 - (a) references to Part I proceedings in respect of a child are references to any proceedings for a Part I order or an order corresponding to a Part I order and include, in relation to proceedings outside the United Kingdom, references to proceedings before a tribunal or other authority having power under the law having effect there to determine Part I matters; and
 - (b) references to Part I matters are references to matters that might be determined by a Part I order or an order corresponding to a Part I order.”

Status: Point in time view as at 21/12/2018.

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Commencement Information

I177 Sch. 13 para. 62 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 63 (1) In section 1 (orders to which Part I of the Act of 1986 applies), in subsection (1)—
- (a) for paragraph (a) there shall be substituted—
 - “(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”; and
 - (b) for paragraph (d) there shall be substituted the following paragraphs—
 - “(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;
 - (e) an order made by the High Court in Northern Ireland in the exercise of its jurisdiction relating to wardship—
 - (i) so far as it gives care and control of a child to any person or provides for the education of or access to a child; but
 - (ii) excluding an order relating to a child of whom care or care and control is (immediately after the making of the order) vested in the Department of Health and Social Services or a Health and Social Services Board.”

^{F355}(2)

- (3) For subsections (3) to (5) of that section there shall be substituted—
- “(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; and
 - (b) (subject to sections 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.”

Textual Amendments

F355 Sch. 13 para. 63(2) repealed (4.11.1996) by S.I. 1995/756, arts. 1(2), 15, Sch.; S.R. 1996/297, art. 3

Commencement Information

I178 Sch. 13 para. 63 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 64 For section 2 there shall be substituted the following sections—

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“2 Jurisdiction: general.

- (1) A court in England and Wales shall not have jurisdiction to make a section 1(1)(a) order with respect to a child in or in connection with matrimonial proceedings in England and Wales unless the condition in section 2A of this Act is satisfied.
- (2) A court in England and Wales shall not have jurisdiction to make a section 1(1)(a) order in a non-matrimonial case (that is to say, where the condition in section 2A of this Act is not satisfied) unless the condition in section 3 of this Act is satisfied.
- (3) A court in England and Wales shall not have jurisdiction to make a section 1(1)(d) order unless—
 - (a) the condition in section 3 of this Act is satisfied, or
 - (b) the child concerned is present in England and Wales on the relevant date and the court considers that the immediate exercise of its powers is necessary for his protection.

2A Jurisdiction in or in connection with matrimonial proceedings.

- (1) The condition referred to in section 2(1) of this Act is that the matrimonial proceedings are proceedings in respect of the marriage of the parents of the child concerned and—
 - (a) the proceedings—
 - (i) are proceedings for divorce or nullity of marriage, and
 - (ii) are continuing;
 - (b) the proceedings—
 - (i) are proceedings for judicial separation,
 - (ii) are continuing,
 and the jurisdiction of the court is not excluded by subsection (2) below; or
 - (c) the proceedings have been dismissed after the beginning of the trial but—
 - (i) the section 1(1)(a) order is being made forthwith, or
 - (ii) the application for the order was made on or before the dismissal.
- (2) For the purposes of subsection (1)(b) above, the jurisdiction of the court is excluded if, after the grant of a decree of judicial separation, on the relevant date, proceedings for divorce or nullity in respect of the marriage are continuing in Scotland or Northern Ireland.
- (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 being made for the purpose of enabling Part I proceedings to be taken in England and Wales with respect to the child concerned.

Status: Point in time view as at 21/12/2018.

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- (4) Where a court—
- (a) has jurisdiction to make a section 1(1)(a) order in or in connection with matrimonial proceedings, but
 - (b) considers that it would be more appropriate for Part I matters relating to 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 section 1(1)(a) order shall be made by any court in or in connection with those proceedings.”

Commencement Information

I179 Sch. 13 para. 64 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 65 (1) In section 3 (habitual residence or presence of child concerned) in subsection (1) for “section 2” there shall be substituted “section 2(2)”.
- (2) In subsection (2) of that section for the words “proceedings for divorce, nullity or judicial separation” there shall be substituted “matrimonial proceedings”.

Commencement Information

I180 Sch. 13 para. 65 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 66 (1) In section 6 (duration and variation of Part I orders), for subsection (3) there shall be substituted the following subsections—
- “(3) A court in England and Wales shall not have jurisdiction to vary a Part I order if, on the relevant date, matrimonial proceedings are continuing in Scotland or Northern Ireland in respect of the marriage of the parents of the child concerned.
- (3A) Subsection (3) above shall not apply if—
- (a) the Part I order was made in or in connection with proceedings for divorce or nullity in England and Wales in respect of the marriage of the parents of the child concerned; and
 - (b) those proceedings are continuing.
- (3B) Subsection (3) above shall not apply if—
- (a) the Part I order was made in or in connection with proceedings for judicial separation in England and Wales;
 - (b) those proceedings are continuing; and
 - (c) the decree of judicial separation has not yet been granted.”
- (2) In subsection (5) of that section for the words from “variation of” to “if the ward” there shall be substituted “variation of a section 1(1)(d) order if the child concerned”.
- (3) For subsections (6) and (7) of that section there shall be substituted the following subsections—
- “(6) Subsection (7) below applies where a Part I order which is—

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- (a) a residence order (within the meaning of the Children Act 1989) in favour of a person with respect to a child,
 - (b) an order made in the exercise of the High Court’s inherent jurisdiction with respect to children by virtue of which a person has care of a child, or
 - (c) an order—
 - (i) of a kind mentioned in section 1(3)(a) of this Act,
 - (ii) under which a person is entitled to the actual possession of a child,
 ceases to have effect in relation to that person by virtue of subsection (1) above.
- (7) Where this subsection applies, any family assistance order made under section 16 of the Children Act 1989 with respect to the child shall also cease to have effect.
- (8) For the purposes of subsection (7) above the reference to a family assistance order under section 16 of the Children Act 1989 shall be deemed to include a reference to an order for the supervision of a child made under—
- (a) section 7(4) of the Family Law Reform Act 1969,
 - (b) section 44 of the Matrimonial Causes Act 1973,
 - (c) section 2(2)(a) of the Guardianship Act 1973,
 - (d) section 34(5) or 36(3)(b) of the Children Act 1975, or
 - (e) section 9 of the Domestic Proceedings and Magistrates’ Courts Act 1978;
- but this subsection shall cease to have effect once all such orders for the supervision of children have ceased to have effect in accordance with Schedule 14 to the Children Act 1989.”

Commencement Information

1181 Sch. 13 para. 66 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

67 For section 7 (interpretation of Chapter II) there shall be substituted—

“7 Interpretation of Chapter II.

In this Chapter—

- (a) “child” means a person who has not attained the age of eighteen;
- (b) “matrimonial proceedings” means proceedings for divorce, nullity of marriage or judicial separation;
- (c) “the relevant date” means, in relation to the making or variation of an order—
 - (i) where an application is made for an order to be made or varied, the date of the application (or first application, if two or more are determined together), and
 - (ii) where no such application is made, the date on which the court is considering whether to make or, as the case may be, vary the order; and

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- (d) “section 1(1)(a) order” and “section 1(1)(d) order” mean orders falling within section 1(1)(a) and (d) of this Act respectively.”

Commencement Information

I182 Sch. 13 para. 67 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 68 In each of the following sections—
- (a) section 11(2)(a) (provisions supplementary to sections 9 and 10),
 - (b) section 13(5)(a) (jurisdiction ancillary to matrimonial proceedings),
 - (c) section 20(3)(a) (habitual residence or presence of child),
 - (d) section 21(4)(a) (jurisdiction in divorce proceedings, etc.), and
 - (e) section 23(4)(a) (duration and variation of custody orders),
- for “4(5)” there shall be substituted “2A(4)”.

Extent Information

E2 Sch. 13 para. 68(a)(b) extends to Scotland and para. 68(c)-(e) extends to Northern Ireland see s. 108(11)(12)

Commencement Information

I183 Sch. 13 para. 68 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 69 In each of the following sections—
- [^{F356}(a) section 19(2) (jurisdiction in cases other than divorce, etc.),]
 - (b) section 20(6) (habitual residence or presence of child), and
 - (c) section 23(5) (duration and variation of custody orders),
- for “section 1(1)(d)” there shall be substituted “section 1(1)(e)”.

Textual Amendments

F356 Sch. 13 para. 69(a) repealed (N.I.) (4.11.1996) by S.I. 1995/755, art. 185(2), Sch. 10; S.R. 1996/297, art. 2(2)

Commencement Information

I184 Sch. 13 para. 69 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 70 In section 34(3) (power to order recovery of child) for paragraph (a) there shall be substituted—
- “(a) section 14 of the Children Act 1989”.

Commencement Information

I185 Sch. 13 para. 70 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 71 (1) In section 42 (general interpretation of Part I), in subsection (4)(a) for the words “has been boarded out with those parties” there shall be substituted “is placed with those parties as foster parents”.

Status: Point in time view as at 21/12/2018.

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(2) In subsection (6) of that section, in paragraph (a) after the word “person” there shall be inserted “ to be allowed contact with or” ”.

Commencement Information

I186 Sch. 13 para. 71 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Local Government Act 1988 (c. 9)

72 In Schedule 1 to the Local Government Act 1988 (competition) at the end of paragraph 2(4) (cleaning of buildings: buildings to which competition provisions do not apply) for paragraph (c) there shall be substituted—
“(c) section 53 of the Children Act 1989.”

Commencement Information

I187 Sch. 13 para. 72 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Amendments of local Acts

73 (1) Section 16 of the ^{M19}Greater London Council (General Powers) Act 1981 (exemption from provisions of Part IV of the Act of certain premises) shall be amended as follows.

^{F357}(2)

^{F357}(3)

(4) In paragraph (i), for the words “section 8 of the Foster Children Act 1980” there shall be substituted “ section 67 of the Children Act 1989” ”.

Textual Amendments

F357 Sch. 13 para. 73(2)(3) repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3) (c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I188 Sch. 13 para. 73 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M19 1981 c. xvii.

74 (1) Section 10(2) of the ^{M20}Greater London Council (General Powers) Act 1984 (exemption from provisions of Part IV of the Act of certain premises) shall be amended as follows.

^{F358}(2)

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

(3) In paragraph (e), for the words “section 8 of the Foster Children Act 1980” there shall be substituted “ section 67 of the Children Act 1989” ”.

^{F358}(4)

Textual Amendments

F358 Sch. 13 para. 74(2)(4) repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art 3(5)-(10) and transitional provisions in Schs. 1-3)

Commencement Information

I189 Sch. 13 para. 74 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M20 1984 c. xxvii.

SCHEDULE 14

Section 108(6).

TRANSITIONALS AND SAVINGS

Pending proceedings, etc.

- 1 (1) [^{F359}Subject to sub-paragraphs (1A) and (4)], nothing in any provision of this Act (other than the repeals mentioned in sub-paragraph (2)) shall affect any proceedings which are pending immediately before the commencement of that provision.
- [^{F360}(1A) Proceedings pursuant to section 7(2) of the Family Law Reform Act 1969 (committal of wards of court to care of local authority) or in the exercise of the High Court’s inherent jurisdiction with respect to children which are pending in relation to a child who has been placed or allowed to remain in the care of a local authority shall not be treated as pending proceedings after 13th October 1992 for the purposes of this Schedule if no final order has been made by that date pursuant to section 7(2) of the 1969 Act or in the exercise of the High Court’s inherent jurisdiction in respect of the child’s care.]
- (2) The repeals are those of—
- (a) section 42(3) of the ^{M21}Matrimonial Causes Act 1973 (declaration by court that party to marriage unfit to have custody of children of family); and
 - (b) section 38 of the ^{M22}Sexual Offences Act 1956 (power of court to divest person of authority over girl or boy in cases of incest).
- (3) For the purposes of the following provisions of this Schedule, any reference to an order in force immediately before the commencement of a provision of this Act shall be construed as including a reference to an order made after that commencement in proceedings pending before that commencement.
- (4) Sub-paragraph (3) is not to be read as making the order in question have effect from a date earlier than that on which it was made.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (5) An order under section 96(3) may make such provision with respect to the application of the order in relation to proceedings which are pending when the order comes into force as the Lord Chancellor considers appropriate.

Textual Amendments

F359 Words in [Sch. 14 para. 1\(1\)](#) substituted (14.10.1991) by [S.I. 1991/828, art. 4, Sch. para. 1A\(1\)](#) (as inserted by [S.I. 1991/1990, art. 2\(c\), Sch. para. 1](#))

F360 [Sch. 14 para. 1\(1A\)](#) inserted (14.10.1991) by [S.I. 1991/828, art. 4, Sch. para. 1A\(2\)](#) (as inserted by [S.I. 1991/1990, art. 2\(c\)](#)), [Sch. para. 1](#))

Commencement Information

I190 [Sch. 14 para. 1](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M21 1973 c. 18.

M22 1956 c. 69.

- 2 Where, immediately before the day on which Part IV comes into force, there was in force an order under section 3(1) of the ^{M23}Children and Young Persons Act 1963 (order directing a local authority to bring a child or young person before a [^{F361}youth court] under section 1 of the Children and Young Persons Act 1969), the order shall cease to have effect on that day.

Textual Amendments

F361 Words in [Sch. 14 para. 2](#) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\), s. 100, Sch. 11 para. 40\(1\)\(2\)\(r\)](#); [S.I. 1992/333, art. 2\(2\), Sch. 2](#).

Commencement Information

I191 [Sch. 14 para. 2](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M23 1963 c. 37.

CUSTODY ORDERS, ETC.

Cessation of declarations of unfitness, etc.

- 3 Where, immediately before the day on which Parts I and II come into force, there was in force—
- (a) a declaration under section 42(3) of the Matrimonial Causes Act 1973 (declaration by court that party to marriage unfit to have custody of children of family); or
 - (b) an order under section 38(1) of the Sexual Offences Act 1956 divesting a person of authority over a girl or boy in a case of incest;
- the declaration or, as the case may be, the order shall cease to have effect on that day.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Commencement Information

I192 Sch. 14 para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

The Family Law Reform Act 1987 (c. 42)

Conversion of orders under section 4

- 4 Where, immediately before the day on which Parts I and II come into force, there was in force an order under section 4(1) of the Family Law Reform Act 1987 (order giving father parental rights and duties in relation to a child), then, on and after that day, the order shall be deemed to be an order under section 4 of this Act giving the father parental responsibility for the child.

Commencement Information

I193 Sch. 14 para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Orders to which paragraphs 6 to 11 apply

- 5 (1) In paragraphs 6 to 11 “an existing order” means any order which—
- (a) is in force immediately before the commencement of Parts I and II;
 - (b) was made under any enactment mentioned in sub-paragraph (2);
 - (c) determines all or any of the following—
 - (i) who is to have custody of a child;
 - (ii) who is to have care and control of a child;
 - (iii) who is to have access to a child;
 - (iv) any matter with respect to a child’s education or upbringing; and
 - (d) is not an order of a kind mentioned in paragraph 15(1).
- (2) The enactments are—
- (a) the ^{M24}Domestic Proceedings and Magistrates’ Courts Act 1978;
 - (b) the ^{M25}Children Act 1975;
 - (c) the ^{M26}Matrimonial Causes Act 1973;
 - (d) the Guardianship of Minors Acts 1971 and 1973;
 - (e) the ^{M27}Matrimonial Causes Act 1965;
 - (f) the ^{M28}Matrimonial Proceedings (Magistrates’ Courts) Act 1960.
- (3) For the purposes of this paragraph and paragraphs 6 to 11 “custody” includes legal custody and joint as well as sole custody but does not include access.

Commencement Information

I194 Sch. 14 para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M24 1978 c. 22.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

M25 1975 c. 72.
M26 1973 c. 18.
M27 1965 c. 72.
M28 1960 c. 48.

Parental responsibility of parents

- 6 (1) Where—
- (a) a child’s father and mother were married to each other at the time of his birth; and
 - (b) there is an existing order with respect to the child,
- each parent shall have parental responsibility for the child in accordance with section 2 as modified by sub-paragraph (3).
- (2) Where—
- (a) a child’s father and mother were not married to each other at the time of his birth; and
 - (b) there is an existing order with respect to the child,
- section 2 shall apply as modified by sub-paragraphs (3) and (4).
- (3) The modification is that for section 2(8) there shall be substituted—
- “(8) The fact that a person has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any existing order or any order made under this Act with respect to the child”.
- (4) The modifications are that—
- (a) for the purposes of section 2(2), where the father has custody or care and control of the child by virtue of any existing order, the court shall be deemed to have made (at the commencement of that section) an order under section 4(1) giving him parental responsibility for the child; and
 - (b) where by virtue of paragraph (a) a court is deemed to have made an order under section 4(1) in favour of a father who has care and control of a child by virtue of an existing order, the court shall not bring the order under section 4(1) to an end at any time while he has care and control of the child by virtue of the order.

Commencement Information

I195 Sch. 14 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Persons who are not parents but who have custody or care and control

- 7 (1) Where a person who is not the parent or guardian of a child has custody or care and control of him by virtue of an existing order, that person shall have parental responsibility for him so long as he continues to have that custody or care and control by virtue of the order.
- (2) Where sub-paragraph (1) applies, [F362Parts I and II and paragraph 15 of Schedule I] shall have effect as modified by this paragraph.
- (3) The modifications are that—

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (a) for section 2(8) there shall be substituted—
- “(8) The fact that a person has parental responsibility for a child does not entitle him to act in a way which would be incompatible with any existing order or with any order made under this Act with respect to the child”;
- (b) at the end of section 10(4) there shall be inserted—
- “(c) any person who has custody or care and control of a child by virtue of any existing order”; and
- (c) at the end of section 34(1)(c) there shall be inserted—
- “(cc) where immediately before the care order was made there was an existing order by virtue of which a person had custody or care and control of the child, that person.”
- [^{F363}(d) for paragraph 15 of Schedule I there shall be substituted—
- “15 Where a child lives with a person as the result of a custodianship order within the meaning of section 33 of the Children Act 1975, a local authority may make contributions to that person towards the cost of the accommodation and maintenance of the child so long as that person continues to have legal custody of that child by virtue of the order.”]

Textual Amendments

F362 Words in [Sch. 14 para. 7\(2\)](#) substituted (14.10.1991) by [S.I. 1991/828, art. 4, Sch. para. 1B\(1\)](#) (as inserted by [S.I. 1991/1990, art. 2\(c\)](#), [Sch. para. 1](#))

F363 [Sch. 14 para. 7\(3\)\(d\)](#) inserted (14.10.1991) by [S.I. 1991/828, art. 4, Sch. para. 1B\(2\)](#) (as inserted by [S.I. 1991/1990, art. 2\(c\)](#), [Sch. para. 1](#))

Commencement Information

I196 [Sch. 14 para. 7](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Persons who have care and control

- 8 (1) Sub-paragraphs (2) to (6) apply where a person has care and control of a child by virtue of an existing order, but they shall cease to apply when that order ceases to have effect.
- (2) Section 5 shall have effect as if—
- (a) for any reference to a residence order in favour of a parent or guardian there were substituted a reference to any existing order by virtue of which the parent or guardian has care and control of the child; and
- (b) for subsection (9) there were substituted—
- “(9) Subsections (1) and (7) do not apply if the existing order referred to in paragraph (b) of those subsections was one by virtue of which a surviving parent of the child also had care and control of him.”
- (3) Section 10 shall have effect as if for subsection (5)(c)(i) there were substituted—
- “(i) in any case where by virtue of an existing order any person or persons has or have care and control of the child, has the consent of that person or each of those persons”.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (4) Section 20 shall have effect as if for subsection (9)(a) there were substituted “ who has care and control of the child by virtue of an existing order.” ”
- (5) Section 23 shall have effect as if for subsection (4)(c) there were substituted—
 “(c) where the child is in care and immediately before the care order was made there was an existing order by virtue of which a person had care and control of the child, that person.”
- (6) In Schedule 1, paragraphs 1(1) and 14(1) shall have effect as if for the words “in whose favour a residence order is in force with respect to the child” there were substituted “ who has been given care and control of the child by virtue of an existing order” ”.

Commencement Information

I197 Sch. 14 para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Persons who have access

- 9 (1) Sub-paragraphs (2) to (4) apply where a person has access by virtue of an existing order.
- (2) Section 10 shall have effect as if after subsection (5) there were inserted—
 “(5A) Any person who has access to a child by virtue of an existing order is entitled to apply for a contact order.”
- (3) Section 16(2) shall have effect as if after paragraph (b) there were inserted—
 “(bb) any person who has access to the child by virtue of an existing order.”
- (4) Sections 43(11), 44(13) and 46(10), shall have effect as if in each case after paragraph (d) there were inserted—
 “(dd) any person who has been given access to him by virtue of an existing order.”

Commencement Information

I198 Sch. 14 para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Enforcement of certain existing orders

F364 10

Textual Amendments

F364 Sch. 14 para. 10 omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), Sch. 2 para. 41; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Discharge of existing orders

- 11 (1) The making of a residence order or a care order with respect to a child who is the subject of an existing order discharges the existing order.
- (2) Where the court makes any section 8 order (other than a residence order) with respect to a child with respect to whom any existing order is in force, the existing order shall have effect subject to the section 8 order.
- (3) The court may discharge an existing order which is in force with respect to a child—
- (a) in any family proceedings relating to the child or in which any question arises with respect to the child's welfare; or
 - (b) on the application of—
 - (i) any parent or guardian of the child;
 - (ii) the child himself; or
 - (iii) any person named in the order.
- (4) A child may not apply for the discharge of an existing order except with the leave of the court.
- (5) The power in sub-paragraph (3) to discharge an existing order includes the power to discharge any part of the order
- (6) In considering whether to discharge an order under the power conferred by sub-paragraph (3) the court shall, if the discharge of the order is opposed by any party to the proceedings, have regard in particular to the matters mentioned in section 1(3).

Commencement Information

I199 Sch. 14 para. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

GUARDIANS

Existing guardians to be guardians under this Act

- 12 (1) Any appointment of a person as guardian of a child which—
- (a) was made—
 - (i) under sections 3 to 5 of the ^{M29}Guardianship of Minors Act 1971;
 - (ii) under section 38(3) of the ^{M30}Sexual Offences Act 1956; or
 - (iii) under the High Court's inherent jurisdiction with respect to children;and
 - (b) has taken effect before the commencement of section 5,
- shall (subject to sub-paragraph (2)) be deemed, on and after the commencement of section 5, to be an appointment made and having effect under that section.
- (2) Where an appointment of a person as guardian of a child has effect under section 5 by virtue of sub-paragraph (1)(a)(ii), the appointment shall not have effect for a period which is longer than any period specified in the order.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Modifications etc. (not altering text)

C29 Sch. 14 para. 12 amended (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1C** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para.1**)

Commencement Information

I200 Sch. 14 para. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M29 1971 c. 3.

M30 1956 c. 69.

Appointment of guardian not yet in effect

- 13 Any appointment of a person to be a guardian of a child—
- (a) which was made as mentioned in paragraph 12(1)(a)(i); but
 - (b) which, immediately before the commencement of section 5, had not taken effect,
- shall take effect in accordance with section 5 (as modified, where it applies, by paragraph 8(2)).

Modifications etc. (not altering text)

C30 Sch. 14 para. 13 amended (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1C** (as inserted by S.I. 1991/1990, art. 2(c), **Sch. para. 1**)

Commencement Information

I201 Sch. 14 para. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Persons deemed to be appointed as guardians under existing wills

- 14 For the purposes of the ^{M31}Wills Act 1837 and of this Act any disposition by will and testament or devise of the custody and tuition of any child, made before the commencement of section 5 and paragraph 1 of Schedule 13, shall be deemed to be an appointment by will of a guardian of the child.

Modifications etc. (not altering text)

C31 Sch. 14 para. 14 amended (14.10.1991) by S.I. 1991/828, art. 4, **Sch. para. 1C** (as inserted by S.I. 1991/1990, art. 2(c), Sch. para.1)

Commencement Information

I202 Sch. 14 para. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

M31 1837 c. 26.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Children in compulsory care

- 15 (1) Sub-paragraph (2) applies where, immediately before the day on which Part IV comes into force, a person was—
- (a) in care by virtue of—
 - (i) a care order under section 1 of the ^{M32}Children and Young Persons Act 1969;
 - (ii) a care order under section 15 of that Act, on discharging a supervision order made under section 1 of that Act; or
 - (iii) an order or authorisation under section 25 or 26 of that Act;
 - ^{F365}(b)
 - (c) in care—
 - (i) under section 2 of the ^{M33}Child Care Act 1980; or
 - (ii) by virtue of paragraph 1 of Schedule 4 to that Act (which extends the meaning of a child in care under section 2 to include children in care under section 1 of the ^{M34}Children Act 1948),
and a child in respect of whom a resolution under section 3 of the Act of 1980 or section 2 of the Act of 1948 was in force;
 - (d) a child in respect of whom a resolution had been passed under section 65 of the Child Care Act 1980;
 - (e) in care by virtue of an order under—
 - (i) section 2(1)(e) of the ^{M35}Matrimonial Proceedings (Magistrates' Courts) Act 1960;
 - (ii) section 7(2) of the ^{M36}Family Law Reform Act 1969;
 - (iii) section 43(1) of the ^{M37}Matrimonial Causes Act 1973; or
 - (iv) section 2(2)(b) of the ^{M38}Guardianship Act 1973;
 - (v) section 10 of the ^{M39}Domestic Proceedings and Magistrates' Courts Act 1978,
(orders having effect for certain purposes as if the child had been received into care under section 2 of the Child Care Act 1980);
 - (f) in care by virtue of an order made, on the revocation of a custodianship order, under section 36 of the ^{M40}Children Act 1975; ^{F366} . . .
 - (g) in care by virtue of an order made, on the refusal of an adoption order, under section 26 of the ^{M41}Adoption Act 1976 or any order having effect (by virtue of paragraph 1 of Schedule 2 to that Act) as if made under that section.
- [^{F367}; or—
- (h) in care by virtue of an order of the court made in the exercise of the High Court's inherent jurisdiction with respect to children,]

(2) Where this sub-paragraph applies, then, on and after the day on which Part IV commences—

 - (a) the order or resolution in question shall be deemed to be a care order;
 - (b) the authority in whose care the person was immediately before that commencement shall be deemed to be the authority designated in that deemed care order; and
 - (c) any reference to a child in the care of a local authority shall include a reference to a person who is the subject of such a deemed care order,

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

and the provisions of this Act shall apply accordingly, subject to paragraph 16.

Textual Amendments

F365 Sch. 14 para. 15(1)(b) repealed (1. 1. 1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), s. 26(2), [Sch. 3](#); S.I. 1991/2719, [art. 2](#), Sch. (with art. 3(1))

F366 Word in Sch. 14 para. 15(1) repealed (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#); S.I. 1991/1883, [art. 3](#), [Sch.](#)

F367 Sch. 14 para. 15(1)(h) added (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 116, [Sch. 16 para. 33\(2\)](#); S.I. 1991/1883, [art. 3](#), [Sch.](#)

Commencement Information

I203 Sch. 14 para. 15 in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and S.I. 1991/828, [art. 3\(2\)](#)

Marginal Citations

- M32** 1969 c. 54.
- M33** 1980 c. 5.
- M34** 1948 c. 43.
- M35** 1960 c. 48.
- M36** 1969 c. 46.
- M37** 1973 c. 18.
- M38** 1973 c. 29.
- M39** 1978 c. 22.
- M40** 1975 c. 72.
- M41** 1976 c. 36.

Modifications

- 16 (1) Sub-paragraph (2) only applies where a person who is the subject of a care order by virtue of paragraph 15(2) is a person falling within sub-paragraph (1)(a)^{F368} . . . of that paragraph.
- (2) Where the person would otherwise have remained in care until reaching the age of nineteen, by virtue of—
- (a) section 20(3)(a) or 21(1) of the Children^{M42} and Young Persons Act 1969;
F369 . . .
- ^{F369}(b)
- this Act applies as if in section 91(12) for the word “eighteen” there were substituted “nineteen”
- ^{F370}(3)
- [^{F371}(3A) Where in respect of a child who has been placed or allowed to remain in the care of a local authority pursuant to section 7(2) of the Family Law Reform Act 1969 or in the exercise of the High Court’s inherent jurisdiction and the child is still in the care of a local authority, proceedings have ceased by virtue of paragraph 1 (1A) to be treated as pending, paragraph 15(2) shall apply on 14th October 1992 as if the child was in care pursuant to an order as specified in paragraph 15(1)(e)(ii) or (h) as the case may be.]

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (4) [^{F372}Sub-paragraphs (5) and (6) only apply]where a child who is the subject of a care order by virtue of paragraph 15(2) is a person falling within sub-paragraph (1)(e) to [^{F373}(h)]of that paragraph.
- (5) [^{F374}Subject to sub-paragraph (6),]Where a court, on making the order, or at any time thereafter, gave directions [^{F375}
- (a) under section 4(4)(a) of the Guardianship Act 1973;
 - (b) under section 43(5)(a) of the Matrimonial Causes Act 1973; or
 - (c) in the exercise of the High Court's inherent jurisdiction with respect to children,]
- as to the exercise by the authority of any powers, those directions shall [^{F376}, subject to the provisions of section 25 of this Act and of any regulations made under that section,]continue to have effect (regardless of any conflicting provision in this Act [^{F377}other than section 25]) until varied or discharged by a court under this sub-paragraph.
- [^{F378}(6) Where directions referred to in sub-paragraph (5) are to the effect that a child be placed in accommodation provided for the purpose of restricting liberty then the directions shall cease to have effect upon the expiry of the maximum period specified by regulations under section 25(2)(a) in relation to children of his description, calculated from 14th October 1991.]

Textual Amendments

- F368** Words in Sch. 14 para. 16(1) repealed (1. 1. 1992) by [Armed Forces Act 1991 \(c. 62\)](#), s. 26(2), [Sch.3](#); S.I. 1991/2719, [art. 2](#), Sch. (with art. 3(1))
- F369** Sch. 14 para. 16(2)(b) and the word "or" immediately preceding it repealed (1. 1. 1992) by [Armed Forces Act 1991 \(c. 62\)](#), s. 26(2), [Sch.3](#); S.I. 1991/2719, [art. 2](#), Sch. (with art. 3(1))
- F370** Sch. 14 para. 16(3) repealed (1. 1. 1992) by [Armed Forces Act 1991 \(c. 62\)](#), s. 26(2), [Sch.3](#); S.I. 1991/2719, [art. 2](#), Sch. (with art. 3(1))
- F371** Sch. 14 para. 16(3A) inserted (14.10.1991) by S.I. 1991/828, [art. 4](#), [Sch. para. 1D](#) (as inserted by S.I. 1991/1990, [art. 2\(c\)](#)), [Sch. para. 1](#))
- F372** Words in Sch. 14 para. 16(4) substituted by S.I. 1991/828, [art. 4](#), [Sch. para. 1](#)
- F373** "(h)" in Sch. 14 para. 16(4) substituted (14.10.1991) for "(g)" by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 116, [Sch. 16 para. 33\(3\)\(a\)](#); S.I. 1991/1883, [art. 3](#), [Sch.](#)
- F374** Words in Sch. 14 para. 16(5) inserted by S.I. 1991/828, [art. 4](#), [Sch. para. 2\(a\)](#)
- F375** Sch. 14 para. 16(5)(a)(b)(c) substituted (14.10.1991) for the words from "under" to "1973" by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 116, [Sch. 16 para. 33\(3\)\(b\)](#); S.I. 1991/1883, [art. 3](#), [Sch.](#)
- F376** Words in Sch. 14 para. 16(5) inserted by S.I. 1991/828, [art. 4](#), [Sch. para. 2\(b\)](#)
- F377** Words in Sch. 14 para. 16(5) inserted by S.I. 1991/828, [art. 4](#), [Sch. para. 2\(c\)](#)
- F378** Sch. 14 para. 16(6) inserted by S.I. 1991/828, [art. 4](#), [Sch. para. 3](#)

Commencement Information

- I204** Sch. 14 para. 16 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

Marginal Citations

- M42** 1969 c. 54.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Cessation of wardship where ward in care

- [^{F379}16A [Where a child who is a ward of court is in care by virtue of—
^{F380}()] (a) an order under section 7(2) of the Family Law Reform Act 1969; or
(b) an order made in the exercise of the High Court’s inherent jurisdiction with respect to children,
he shall, on the day on which Part IV commences, cease to be a ward of court.
[Where immediately before the day on which Part IV commences a child was in the
^{F381}(2) care of a local authority and as a result of an order—
(a) pursuant to section 7(2) of the Family Law Reform Act 1969; or
(b) made in the exercise of the High Court’s inherent jurisdiction with respect to children,
continued to be in the care of a local authority and was made a ward of court, he shall on the day on which Part IV commences, cease to be a ward of court.]
^{F381}(3) Sub-paragraphs (1) and (2) do not apply in proceedings which are pending.]

Textual Amendments

- F379** Sch. 14 para. 16A inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 33(4); S.I. 1991/1883, art. 3, Sch.
F380 Words in Sch. 14 para. 16A inserted (14.10.1991) by S.I. 1991/828, art. 4, Sch. para. 4(a) (as substituted by S.I. 1991/1990, art. 2(c), Sch. para.2)
F381 Sch. 14 para. 16A(2)(3) inserted (14.10.1991) by S.I. 1991/828, art. 4, Sch. para. 4(b) (as substituted by S.I. 1991/1990, art. 2(c), Sch. para.2)

Children placed with parent etc. while in compulsory care

- 17 (1) This paragraph applies where a child is deemed by paragraph 15 to be in the care of a local authority under an order or resolution which is deemed by that paragraph to be a care order.
(2) If, immediately before the day on which Part III comes into force, the child was allowed to be under the charge and control of—
(a) a parent or guardian under section 21(2) of the ^{M43}Child Care Act 1980; or
(b) a person who, before the child was in the authority’s care, had care and control of the child by virtue of an order falling within paragraph 5,
on and after that day the provision made by and under section 23(5) shall apply as if the child had been placed with the person in question in accordance with that provision.

Commencement Information

- I205** Sch. 14 para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

- M43** 1980 c. 5.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Orders for access to children in compulsory care

- 18 (1) This paragraph applies to any access order—
- (a) made under section 12C of the Child Care Act 1980 (access orders with respect to children in care of local authorities); and
 - (b) in force immediately before the commencement of Part IV.
- (2) On and after the commencement of Part IV, the access order shall have effect as an order made under section 34 in favour of the person named in the order.

Commencement Information

I206 Sch. 14 para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- [^{F382}18(1)] This paragraph applies to any decision of a local authority to terminate arrangements for access or to refuse to make such arrangements—
- (a) of which notice has been given under, and in accordance with, section 12B of the Child Care Act 1980 (termination of access); and
 - (b) which is in force immediately before the commencement of Part IV.
- (2) On and after the commencement of Part IV, a decision to which this paragraph applies shall have effect as a court order made under section 34(4) authorising the local authority to refuse to allow contact between the child and the person to whom notice was given under section 12B of the Child Care Act 1980.]

Textual Amendments

F382 Sch. 14 para. 18A inserted (14.10.1991) by S.I. 1991/828, art. 4, Sch. para. 5

- 19 (1) This paragraph applies where, immediately before the commencement of Part IV, an access order made under section 12C of the Act of 1980 was suspended by virtue of an order made under section 12E of that Act (suspension of access orders in emergencies).
- (2) The suspending order shall continue to have effect as if this Act had not been passed.
- (3) If—
- (a) before the commencement of Part IV; and
 - (b) during the period for which the operation of the access order is suspended, the local authority concerned made an application for its variation or discharge to an appropriate [^{F383}youth court], its operation shall be suspended until the date on which the application to vary or discharge it is determined or abandoned.

Textual Amendments

F383 Words in Sch. 14 para. 19 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, Sch. 11 para. 40(1)(2)(r); S.I. 1992/333, art. 2(2), Sch. 2.

Commencement Information

I207 Sch. 14 para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Children in voluntary care

- 20 (1) This paragraph applies where, immediately before the day on which Part III comes into force—
- (a) a child was in the care of a local authority—
 - (i) under section 2(1) of the Child Care ^{M44}Act 1980; or
 - (ii) by virtue of paragraph 1 of Schedule 4 to that Act (which extends the meaning of references to children in care under section 2 to include references to children in care under section 1 of the ^{M45}Children Act 1948); and
 - (b) he was not a person in respect of whom a resolution under section 3 of the Act of 1980 or section 2 of the Act of 1948 was in force.
- (2) Where this paragraph applies, the child shall, on and after the day mentioned in sub-paragraph (1), be treated for the purposes of this Act as a child who is provided with accommodation by the local authority under Part III, but he shall cease to be so treated once he ceases to be so accommodated in accordance with the provisions of Part III.
- (3) Where—
- (a) this paragraph applies; and
 - (b) the child, immediately before the day mentioned in sub-paragraph (1), was (by virtue of section 21(2) of the Act of 1980) under the charge and control of a person falling within paragraph 17(2)(a) or (b),
- the child shall not be treated for the purposes of this Act as if he were being looked after by the authority concerned.

Commencement Information

I208 Sch. 14 para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M44 1980 c. 5.

M45 1948 c. 43.

Boarded out children

- 21 (1) Where, immediately before the day on which Part III comes into force, a child in the care of a local authority—
- (a) was—
 - (i) boarded out with a person under section 21(1)(a) of the Child Care Act 1980; or
 - (ii) placed under the charge and control of a person, under section 21(2) of that Act; and
 - (b) the person with whom he was boarded out, or (as the case may be) placed, was not a person falling within paragraph 17(2)(a) or (b),
- on and after that day, he shall be treated (subject to sub-paragraph (2)) as having been placed with a local authority foster parent and shall cease to be so treated when he ceases to be placed with that person in accordance with the provisions of this Act.
- (2) Regulations made under section 23(2)(a) shall not apply in relation to a person who is a local authority foster parent by virtue of sub-paragraph (1) before the end of the

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period of twelve months beginning with the day on which Part III comes into force and accordingly that person shall for that period be subject—

- (a) in a case falling within sub-paragraph (1)(a)(i), to terms and regulations mentioned in section 21(1)(a) of the Act of 1980; and
- (b) in a case falling within sub-paragraph (1)(a)(ii), to terms fixed under section 21(2) of that Act and regulations made under section 22A of that Act, as if that Act had not been repealed by this Act.

Commencement Information

I209 Sch. 14 para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Children in care to qualify for advice and assistance

22 Any reference in Part III to a person qualifying for advice and assistance shall be construed as including a reference to a person within the area of the local authority in question who is under twenty-one and who was, at any time after reaching the age of sixteen but while still a child—

- (a) a person falling within—
 - (i) any of paragraphs (a) to [F384(h)] of paragraph 15(1); or
 - (ii) paragraph 20(1); or
- (b) the subject of a criminal care order (within the meaning of paragraph 34).

Textual Amendments

F384 “h” in Sch. 14 para. 22(a)(i) substituted (14.10.1991) for “g” by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 33(5); S.I. 1991/1883, art. 3, Sch.

Commencement Information

I210 Sch. 14 para. 22 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Emigration of children in care

23 Where—

- (a) the Secretary of State has received a request in writing from a local authority that he give his consent under section 24 of the Child^{M46}Care Act 1980 to the emigration of a child in their care; but
- (b) immediately before the repeal of the Act of 1980 by this Act, he has not determined whether or not to give his consent,

section 24 of the Act of 1980 shall continue to apply (regardless of that repeal) until the Secretary of State has determined whether or not to give his consent to the request.

Commencement Information

I211 Sch. 14 para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

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Marginal Citations

M46 1980 c. 5.

Contributions for maintenance of children in care

- 24 (1) Where, immediately before the day on which Part III of Schedule 2 comes into force, there was in force an order made (or having effect as if made) under any of the enactments mentioned in sub-paragraph (2), then, on and after that day—
- (a) the order shall have effect as if made under paragraph 23(2) of Schedule 2 against a person liable to contribute; and
 - (b) Part III of Schedule 2 shall apply to the order, subject to the modifications in sub-paragraph (3).
- (2) The enactments are—
- (a) section 11(4) of the Domestic ^{M47}Proceedings and Magistrates' Courts Act 1978;
 - (b) section 26(2) of the ^{M48}Adoption Act 1976;
 - (c) section 36(5) of the ^{M49}Children Act 1975;
 - (d) section 2(3) of the ^{M50}Guardianship Act 1973;
 - (e) section 2(1)(h) of the ^{M51}Matrimonial Proceedings (Magistrates' Courts) Act 1960,
- (provisions empowering the court to make an order requiring a person to make periodical payments to a local authority in respect of a child in care).
- (3) The modifications are that, in paragraph 23 of Schedule 2—
- (a) in sub-paragraph (4), paragraph (a) shall be omitted;
 - (b) for sub-paragraph (6) there shall be substituted—

“(6) Where—

 - (a) a contribution order is in force;
 - (b) the authority serve a contribution notice under paragraph 22; and
 - (c) the contributor and the authority reach an agreement under paragraph 22(7) in respect of the contribution notice,

the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect”; and
 - (c) at the end of sub-paragraph (10) there shall be inserted—

“and

 - (c) where the order is against a person who is not a parent of the child, shall be made with due regard to—
 - (i) whether that person had assumed responsibility for the maintenance of the child, and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;
 - (ii) whether he did so knowing that the child was not his child;

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(iii) the liability of any other person to maintain the child.”

Commencement Information

I212 Sch. 14 para. 24 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M47 1978 c. 22.

M48 1976 c. 36.

M49 1975 c. 72.

M50 1973 c. 29.

M51 1960 c. 48.

SUPERVISION ORDERS

- 25 (1) This paragraph applies to any supervision order—
- (a) made—
 - (i) under section 1(3)(b) of the Children ^{M52}and Young Persons Act 1969; or
 - (ii) under section 21(2) of that Act on the discharge of a care order made under section 1(3)(c) of that Act; and
 - (b) in force immediately before the commencement of Part IV.
- (2) On and after the commencement of Part IV, the order shall be deemed to be a supervision order made under section 31 and—
- (a) any requirement of the order that the child reside with a named individual shall continue to have effect while the order remains in force, unless the court otherwise directs;
 - (b) any other requirement imposed by the court, or directions given by the supervisor, shall be deemed to have been imposed or given under the appropriate provisions of Schedule 3.
- (3) Where, immediately before the commencement of Part IV, the order had been in force for a period of [^{F385}six months or more], it shall cease to have effect at the end of the period of six months beginning with the day on which Part IV comes into force unless—
- (a) the court directs that it shall cease to have effect at the end of a different period (which shall not exceed three years);
 - (b) it ceases to have effect earlier in accordance with section 91; or
 - (c) it would have ceased to have had effect earlier had this Act not been passed.
- (4) Where sub-paragraph (3) applies, paragraph 6 of Schedule 3 shall not apply.
- (5) Where, immediately before the commencement of Part IV, the order had been in force for less than six months it shall cease to have effect in accordance with section 91 and paragraph 6 of Schedule 3 unless—
- (a) the court directs that it shall cease to have effect at the end of a different period (which shall not exceed three years); or
 - (b) it would have ceased to have had effect earlier had this Act not been passed.

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

Textual Amendments

F385 Words in [Sch. 14 para. 25](#) substituted (14.10.1991) by [S.I. 1991/828, art. 4, Sch. para. 6](#)

Commencement Information

I213 [Sch. 14 para. 25](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M52 1969 c. 54.

Other supervision orders

- 26 (1) This paragraph applies to any order for the supervision of a child which was in force immediately before the commencement of Part IV and was made under—
- (a) section 2(1)(f) of the Matrimonial ^{M53}Proceedings (Magistrates Courts) Act 1960;
 - (b) section 7(4) of the ^{M54}Family Law Reform Act 1969;
 - (c) section 44 of the ^{M55}Matrimonial Causes Act 1973;
 - (d) section 2(2)(a) of the ^{M56}Guardianship Act 1973;
 - (e) section 34(5) or 36(3)(b) of the ^{M57}Children Act 1975;
 - (f) section 26(1)(a) of the ^{M58}Adoption Act 1976; or
 - (g) section 9 of the ^{M59}Domestic Proceedings and Magistrates Courts Act 1978.
- (2) The order shall not be deemed to be a supervision order made under any provision of this Act but shall nevertheless continue in force for a period of one year beginning with the day on which Part IV comes into force unless—
- (a) the court directs that it shall cease to have effect at the end of a lesser period; or
 - (b) it would have ceased to have had effect earlier had this Act not been passed.

Commencement Information

I214 [Sch. 14 para. 26](#) wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M53 1960 c. 48.

M54 1969 c. 46.

M55 1973 c. 18.

M56 1973 c. 29.

M57 1975 c. 72.

M58 1976 c. 36.

M59 1978 c. 22.

PLACE OF SAFETY ORDERS

- 27 (1) This paragraph applies to—
- (a) any order or warrant authorising the removal of a child to a place of safety which—

Status: Point in time view as at 21/12/2018.

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- (i) was made, or issued, under any of the enactments mentioned in sub-paragraph (2); and
 - (ii) was in force immediately before the commencement of Part IV; and
- (b) any interim order made under section 23(5) of the Children ^{M60}and Young Persons Act 1963 or section 28(6) of the Children and Young Persons Act ^{M61}1969.
- (2) The enactments are—
- (a) section 40 of the ^{M62}Children and Young Persons Act 1933 (warrant to search for or remove child);
 - (b) section 28(1) of the ^{M63}Children and Young Persons Act 1969 (detention of child in place of safety);
 - (c) section 34(1) of the ^{M64}Adoption Act 1976 (removal of protected children from unsuitable surroundings);
 - (d) section 12(1) of the ^{M65}Foster Children Act 1980 (removal of foster children kept in unsuitable surroundings).
- (3) The order or warrant shall continue to have effect as if this Act had not been passed.
- (4) Any enactment repealed by this Act shall continue to have effect in relation to the order or warrant so far as is necessary for the purposes of securing that the effect of the order is what it would have been had this Act not been passed.
- (5) Sub-paragraph (4) does not apply to the power to make an interim order or further interim order given by section 23(5) of the ^{M66}Children and Young Persons Act 1963 or section 28(6) of the Children and Young Persons Act 1969.
- (6) Where, immediately before section 28 of the Children and Young Persons Act 1969 is repealed by this Act, a child is being detained under the powers granted by that section, he may continue to be detained in accordance with that section but subsection (6) shall not apply.

Commencement Information

I215 Sch. 14 para. 27 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M60 1963 c. 37.
M61 1969 c. 54.
M62 1933 c. 12.
M63 1969 c. 54.
M64 1976 c. 36.
M65 1980 c. 6.
M66 1963 c. 37.

Recovery of children

- 28 The repeal by this Act of subsection (1) of section 16 of the ^{M67}Child Care Act 1980 (arrest of child absent from compulsory care) shall not affect the operation of that section in relation to any child arrested before the coming into force of the repeal.

Status: Point in time view as at 21/12/2018.

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Commencement Information

I216 Sch. 14 para. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M67 1980 c. 5.

- 29 (1) This paragraph applies where—
- (a) a summons has been issued under section 15 or 16 of the Child Care Act 1980 (recovery of children in voluntary or compulsory care); and
 - (b) the child concerned is not produced in accordance with the summons before the repeal of that section by this Act comes into force.
- (2) The summons, any warrant issued in connection with it and section 15 or (as the case may be) section 16, shall continue to have effect as if this Act had not been passed.

Commencement Information

I217 Sch. 14 para. 29 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 30 The amendment by paragraph 27 of Schedule 12 of section 32 of the Children and Young Persons Act 1969 (detention of absentees) shall not affect the operation of that section in relation to—
- (a) any child arrested; or
 - (b) any summons or warrant issued,
- under that section before the coming into force of that paragraph.

Commencement Information

I218 Sch. 14 para. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Voluntary organisations: Parental rights resolutions

- 31 (1) This paragraph applies to a resolution—
- (a) made under section 64 of the Child Care Act 1980 (transfer of parental rights and duties to voluntary organisations); and
 - (b) in force immediately before the commencement of Part IV.
- (2) The resolution shall continue to have effect until the end of the period of six months beginning with the day on which Part IV comes into force unless it is brought to an end earlier in accordance with the provisions of the Act of 1980 preserved by this paragraph.
- (3) While the resolution remains in force, any relevant provisions of, or made under, the Act of 1980 shall continue to have effect with respect to it.
- (4) Sub-paragraph (3) does not apply to—
- (a) section 62 of the Act of 1980 and any regulations made under that section (arrangements by voluntary organisations for emigration of children); or
 - (b) section 65 of the Act of 1980 (duty of local authority to assume parental rights and duties).

Status: Point in time view as at 21/12/2018.

Changes to legislation: Children Act 1989 is up to date with all changes known to be in force on or before 20 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)

- (5) Section 5(2) of the Act of 1980 (which is applied to resolutions under Part VI of that Act by section 64(7) of that Act) shall have effect with respect to the resolution as if the reference in paragraph (c) to an appointment of a guardian under section 5 of the ^{M68}Guardianship of Minors Act 1971 were a reference to an appointment of a guardian under section 5 of this Act.

Commencement Information

I219 Sch. 14 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M68 1971 c. 3.

Foster children

- 32 (1) This paragraph applies where—
- (a) immediately before the commencement of Part VIII, a child was a foster child within the meaning of the ^{M69}Foster Children Act 1980; and
 - (b) the circumstances of the case are such that, had Parts VIII and IX then been in force, he would have been treated for the purposes of this Act as a child who was being provided with accommodation in a children's home and not as a child who was being privately fostered.
- (2) If the child continues to be cared for and provided with accommodation as before, section 63(1) and (10) shall not apply in relation to him if—
- (a) an application for registration of the home in question is made under section 63 before the end of the period of three months beginning with the day on which Part VIII comes into force; and
 - (b) the application has not been refused or, if it has been refused—
 - (i) the period for an appeal against the decision has not expired; or
 - (ii) an appeal against the refusal has been made but has not been determined or abandoned.
- (3) While section 63(1) and (10) does not apply, the child shall be treated as a privately fostered child for the purposes of Part IX.

Commencement Information

I220 Sch. 14 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M69 1980 c. 6.

Nurseries and child minding

- 33 (1) Sub-paragraph (2) applies where, immediately before the commencement of Part X, any premises are registered under section 1(1)(a) of the ^{M70}Nurseries and Child-Minders Regulation Act 1948 (registration of premises, other than premises wholly or mainly used as private dwellings, where children are received to be looked after).

Status: Point in time view as at 21/12/2018.

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- (2) During the transitional period, the provisions of the Act of 1948 shall continue to have effect with respect to those premises to the exclusion of Part X.
- (3) Nothing in sub-paragraph (2) shall prevent the local authority concerned from registering any person under section 71(1)(b) with respect to the premises.
- (4) In this paragraph “the transitional period” means the period ending with—
- (a) the first anniversary of the commencement of Part X; or
 - (b) if earlier, the date on which the local authority concerned registers any person under section 71(1)(b) with respect to the premises.

Commencement Information

I221 Sch. 14 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M70 1948 c. 53.

- 34 (1) Sub-paragraph (2) applies where, immediately before the commencement of Part X—
- (a) a person is registered under section 1(1)(b) of the Act of 1948 (registration of persons who for reward receive into their homes children under the age of five to be looked after); and
 - (b) all the children looked after by him as mentioned in section 1(1)(b) of that Act are under the age of five.
- (2) During the transitional period, the provisions of the Act of 1948 shall continue to have effect with respect to that person to the exclusion of Part X.
- (3) Nothing in sub-paragraph (2) shall prevent the local authority concerned from registering that person under section 71(1)(a).
- (4) In this paragraph “the transitional period” means the period ending with—
- (a) the first anniversary of the commencement of Part X; or
 - (b) if earlier, the date on which the local authority concerned registers that person under section 71(1)(a).

Commencement Information

I222 Sch. 12 para. 34 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Children accommodated in certain establishments

- 35 In calculating, for the purposes of section 85(1)(a) or 86(1)(a), the period of time for which a child has been accommodated any part of that period which fell before the day on which that section came into force shall be disregarded.

Commencement Information

I223 Sch. 14 para. 35 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Status: Point in time view as at 21/12/2018.

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Criminal care orders

- 36 (1) This paragraph applies where, immediately before the commencement of section 90(2) there was in force an order (“a criminal care order”) made—
- (a) under section 7(7)(a) of the ^{M71}Children and Young Persons Act 1969 (alteration in treatment of young offenders etc.); or
 - (b) under section 15(1) of that Act, on discharging a supervision order made under section 7(7)(b) of that Act.
- (2) The criminal care order shall continue to have effect until the end of the period of six months beginning with the day on which section 90(2) comes into force unless it is brought to an end earlier in accordance with—
- (a) the provisions of the Act of 1969 preserved by sub-paragraph (3)(a); or
 - (b) this paragraph.
- (3) While the criminal care order remains in force, any relevant provisions—
- (a) of the Act of 1969; and
 - (b) of the ^{M72}Child Care Act 1980,
- shall continue to have effect with respect to it.
- (4) While the criminal care order remains in force, a court may, on the application of the appropriate person, make—
- (a) a residence order;
 - (b) a care order or a supervision order under section 31;
 - (c) an education supervision order under section 36 (regardless of subsection (6) of that section); or
 - (d) an order falling within sub-paragraph (5),
- and shall, on making any of those orders, discharge the criminal care order.
- (5) The order mentioned in sub-paragraph (4)(d) is an order having effect as if it were a supervision order of a kind mentioned in section 12AA of the Act of 1969 (as inserted by paragraph 23 of Schedule 12), that is to say, a supervision order—
- (a) imposing a requirement that the child shall live for a specified period in local authority accommodation; but
 - (b) in relation to which the conditions mentioned in [^{F386}subsection (6)] of section 12AA are not required to be satisfied.
- (6) The maximum period which may be specified in an order made under sub-paragraph (4)(d) is six months and such an order may stipulate that the child shall not live with a named person.
- ^{F387}(7)
- (8) In sub-paragraph (4) “appropriate person” means—
- (a) in the case of an application for a residence order, any person (other than a local authority) who has the leave of the court;
 - (b) in the case of an application for an education supervision order, a local education authority; and
 - (c) in any other case, the local authority to whose care the child was committed by the order.

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Textual Amendments

- F386** Words in Sch. 14 para. 36(5)(b) substituted (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 116, [Sch. 16 para. 33\(6\)](#); S.I. 1991/1883, [art. 3](#), Sch.
- F387** Sch. 14 para. 36(7) repealed (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 25 Pt. 2](#) (with s. 141(1)-(6)); S.I. 2014/423, [art. 2\(c\)](#) (with [art. 3](#))

Commencement Information

- I224** Sch. 14 para. 36 in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

- M71** 1969 c. 54.
M72 1980 c. 5.

MISCELLANEOUS

Consents under the Marriage Act 1949 (c. 76)

- 37 (1) In the circumstances mentioned in sub-paragraph (2), section 3 of and Schedule 2 to the Marriage Act 1949 (consents to marry) shall continue to have effect regardless of the amendment of that Act by paragraph 5 of Schedule 12.
- (2) The circumstances are that—
- (a) immediately before the day on which paragraph 5 of Schedule 12 comes into force, there is in force—
 - (i) an existing order, as defined in paragraph 5(1); or
 - (ii) an order of a kind mentioned in paragraph 16(1); and
 - (b) section 3 of and Schedule 2 to the Act of 1949 would, but for this Act, have applied to the marriage of the child who is the subject of the order.

Commencement Information

- I225** Sch. 14 para. 37 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

The Children Act 1975 (c. 72)

- 38 The amendments of other enactments made by the following provisions of the Children Act 1975 shall continue to have effect regardless of the repeal of the Act of 1975 by this Act—
- (a) section 68(4), (5) and (7) (amendments of section 32 of the ^{M73}Children and Young Persons Act 1969); and
 - (b) in Schedule 3—
 - (i) paragraph 13 (amendments of ^{M74}Births and Deaths Registration Act 1953);
 - (ii) paragraph 43 (amendment of ^{M75}Perpetuities and Accumulations Act 1964);
 - (iii) paragraphs 46 and 47 (amendments of ^{M76}Health Services and Public Health Act 1968); and

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(iv) paragraph 77 (amendment of ^{M77}Parliamentary and Other Pensions Act 1972).

Extent Information

E3 Sch. 14 para. 38(a) extends to Northern Ireland see s. 108(12)

Commencement Information

I226 Sch. 14 para. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M73 1969 c. 54.
M74 1953 c. 20.
M75 1964 c. 55.
M76 1968 c. 46.
M77 1972 c. 48.

The Child Care Act 1980 (c. 5)

39 The amendment made to section 106(2)(a) of the ^{M78}Children and Young Persons Act 1933 by paragraph 26 of Schedule 5 to the Child Care Act 1980 shall continue to have effect regardless of the repeal of the Act of 1980 by this Act.

Commencement Information

I227 Sch. 14 para. 39 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M78 1933 c. 12.

Legal aid

^{F388}40

Textual Amendments

F388 Sch. 14 para. 40 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with s. 107, Sch. 14 para. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(i), **Sch.**

SCHEDULE 15

Section 108(7).

REPEALS

Extent Information

E4 Sch. 15: for extent see s. 108(11)(12)

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Commencement Information

I228 Sch. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

1891 c. 3.	The Custody of Children Act 1891.	The whole Act.
1933 c. 12.	The Children and Young Persons Act 1933.	In section 14(2), the words from "may also" to "together, and". In section 34(8), "(a)" and the words from "and (b)" to the end. Section 40. In section 107(1), the definitions of "care order" and "interim order".
1944 c. 31.	The Education Act 1944.	In section 40(1), the words from "or to imprisonment" to the end. In section 114(1), the definition of parent.
1948 c. 53.	The Nurseries and Child-Minders Regulation Act 1948.	The whole Act.
1949 c. 76.	The Marriage Act 1949.	In section 3(1), the words "unless the child is subject to a custodianship order, when the consent of the custodian and, where the custodian is the husband or wife of a parent of the child of that parent shall be required". Section 78(1A). Schedule 2.
1956 c. 69.	The Sexual Offences Act 1956.	Section 38.
1959 c. 72.	The Mental Health Act 1959.	Section 9.
1963 c. 37.	The Children and Young Persons Act 1963.	Section 3. Section 23. In section 29(1), the words "under section 1 of the Children and Young Persons Act 1969 or".

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		Section 53(3).
		In Schedule 3, paragraph 11.
1964 c. 42.	The Administration of Justice Act 1964.	In section 38, the definition of “domestic court”.
1968 c. 46.	The Health Services and Public Health Act 1968.	Section 60.
		In section 64(3)(a), subparagraphs (vi), (vii), (ix) and (xv).
		In section 65(3)(b), paragraphs (vii), (viii) and (x).
1968 c. 49.	The Social Work (Scotland) Act 1968.	Section 1(4)(a).
		Section 5(2)(d).
		In section 86(3), the words “the Child Care Act 1980 or”.
		In Schedule 8, paragraph 20.
1969 c. 46.	The Family Law Reform Act 1969.	Section 7.
1969 c. 54.	The Children and Young Persons Act 1969.	Sections 1 to 3.
		In section 7, in subsection (7) the words “to subsection (7A) of this section and”, paragraph (a) and the words from “and subsection (13) of section 2 of this Act” to the end; and subsection (7A).
		Section 7A.
		In section 8(3), the words from “and as if the reference to acquittal” to the end.
		In section 9(1), the words “proceedings under section 1 of this Act or”.
		Section 11A.
		Section 14A.
		In section 15, in subsection (1) the words “and may on discharging the supervision order make a care order (other than an interim order) in respect of

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the supervised person"; in subsection (2) the words "and the supervision order was not made by virtue of section 1 of this Act or on the occasion of the discharge of a care order"; in subsection (2A), the words "or made by a court on discharging a care order made under that subsection"; and in subsection (4), the words "or made by a court on discharging a care order made under that section".

In section 16, in subsection (6)(a), the words "a care order or"; and in subsection (8) the words "or, in a case where a parent or guardian of his was a party to the proceedings on an application under the preceding section by virtue of an order under section 32A of this Act, the parent or guardian".

In section 17, paragraphs (b) and (c).

Sections 20 to 22.

Section 27(4).

Section 28.

Sections 32A to 32C.

In section 34(2) the words "under section 1 of this Act or", the words "2(3) or" and the words "and accordingly in the case of such a person the reference in section 1(1) of this Act to the said section 2(3) shall be construed as including a reference to this subsection".

In section 70, in subsection (1), the definitions of "care order" and "interim order"; and in subsection (2) the words "21(2), 22(4) or (6) or 28(5)" and the words "care order or warrant".

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		In Schedule 5, paragraphs 12(1), 37, 47 and 48.
1970 c. 34.	The Marriage (Registrar General's Licence) Act 1970.	In section 3(b), the words from "as amended" to "1969".
1970 c. 42.	The Local Authority Social Services Act 1970.	In Schedule 1, in the entry relating to the Children and Young Persons Act 1969, the words "welfare, etc. of foster children"; the entries relating to the Matrimonial Causes Act 1973, section 44, the Domestic Proceedings and Magistrates' Courts Act 1978, section 9, the Child Care Act 1980 and the Foster Children Act 1980.
1971 c. 3.	The Guardianship of Minors Act 1971.	The whole Act.
1971 c. 23.	The Courts Act 1971.	In Schedule 8, paragraph 59(1).
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 41.
1972 c. 70.	The Local Government Act 1972.	In Schedule 23, paragraphs 4 and 9(3).
1972 c. 71.	The Criminal Justice Act 1972.	Section 51(1).
1973 c. 18.	The Matrimonial Causes Act 1973.	Sections 42 to 44. In section 52(1), the definition of "custody". In Schedule 2, paragraph 11.
1973 c. 29.	The Guardianship Act 1973.	The whole Act.
1973 c. 45.	The Domicile and Matrimonial Proceedings Act 1973.	In Schedule 1, in paragraph 11(1) the definitions of "custody" and "education" and in paragraph 11(3) the word "four".
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In section 13(1), the words "and the purposes of section 1(2)(bb) of the Children and Young Persons Act 1969". In Schedule 3, in paragraph 3(2A), the word "and"

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		immediately preceding paragraph (b).
1974 c. 53.	The Rehabilitation of Offenders Act 1974.	In section 1(4)(b) the words “or in care proceedings under section 1 of the Children and Young Persons Act 1969”. In section 5, in subsection 5(e), the words “a care order or”; and in subsection (10) the words “care order or”.
1975 c. 72.	The Children Act 1975.	The whole Act.
1976 c. 36.	The Adoption Act 1976.	Section 11(5). Section 14(3). In section 15, in subsection (1), the words from “subject” to “cases)” and subsection (4). Section 26. In section 28(5), the words “or the organisation”. Section 34. Section 36(1)(c). Section 37(1), (3) and (4). Section 55(4). In section 57, in subsection (2), the words from “and the court” to the end and subsections (4) to (10). In section 72(1), the definition of “place of safety”, in the definition of “local authority” the words from “ and” to the end and, in the definition of “specified order”, the words “Northern Ireland or”. In Schedule 3, paragraphs 8, 11, 19, 21, and 22.
1977 c. 45.	The Criminal Law Act 1977.	Section 58(3).
1977 c. 49.	The National Health Service Act 1977.	In section 21, in subsection (1)(a) the words “and young children”.

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		<p>In Schedule 8, in paragraph 1(1), the words from “and of children” to the end; in paragraph 2(2) the words from “or (b) to persons who” to “arrangements”; and in paragraph 3(1) “(a)” and the words from “or (b) a child” to “school age”.</p> <p>In Schedule 15, paragraphs 10 and 25.</p>
1978 c. 22.	The Domestic Proceedings and Magistrates’ Courts Act 1978.	<p>Sections 9 to 15.</p> <p>In section 19, in subsection (1) the words “following powers, that is to say” and sub-paragraph (ii), subsections (2) and (4), in subsection (7) the words “and one interim custody order” and in subsection (9) the words “or 21”.</p> <p>In section 20, subsection (4) and in subsection (9) the words “subject to the provisions of section 11(8) of this Act”.</p> <p>Section 21.</p> <p>In section 24, the words “or 21” in both places where they occur.</p> <p>In section 25, in subsection (1) paragraph (b) and the word “or” immediately preceding it and in subsection (2) paragraphs (c) and (d).</p> <p>Section 29(4).</p> <p>Sections 33 and 34.</p> <p>Sections 36 to 53.</p> <p>Sections 64 to 72.</p> <p>Sections 73(1) and 74(1) and (3).</p>

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		In section 88(1), the definition of “actual custody”.
		In Schedule 2, paragraphs 22, 23, 27, 29, 31, 36, 41 to 43, 46 to 50.
1978 c. 28.	The Adoption (Scotland) Act 1978.	In section 20(3)(c), the words “section 12(3)(b) of the Adoption Act 1976 or of”.
		In section 45(5), the word “approved”.
		Section 49(4).
		In section 65(1), in the definition of “local authority”, the words from “and” to the end and, in the definition of “specified order”, the words “Northern Ireland or”.
1978 c. 30.	The Interpretation Act 1978.	In Schedule 1, the entry with respect to the construction of certain expressions relating to children.
1980 c. 5.	The Child Care Act 1980.	The whole Act.
1980 c. 6.	The Foster Children Act 1980.	The whole Act.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 65(1), paragraphs (e) and (g) and the paragraph (m) inserted in section 65 by paragraph 82 of Schedule 2 to the Family Law Reform Act 1987.
		In section 81(8), in the definition of “guardian” the words “by deed or will” and in the definition of “sums adjudged to be paid by a conviction” the words from “as applied” to the end.
		In section 143(2), paragraph (i).
		In Schedule 7, paragraphs 78, 83, 91, 92, 110, 116, 117, 138, 157, 158, 165, 166 and 199 to 201.
1981 c. 60.	The Education Act 1981.	In Schedule 3, paragraph 9.

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1982 c. 20.	The Children's Homes Act 1982.	The whole Act.
1982 c. 48.	The Criminal Justice Act 1982.	Sections 22 to 25. Section 27. In Schedule 14, paragraphs 45 and 46.
1983 c. 20.	The Mental Health Act 1983.	In section 26(5), paragraph (d) and the word "or" immediately preceding it. In section 28(1), the words "(including an order under section 38 of the Sexual Offences Act 1956)". In Schedule 4, paragraphs 12, 26(a), (b) and (c), 35, 44, 50 and 51.
1983 c. 41.	The Health and Social Services and Social Security Adjudications Act 1983.	Section 4(1). Sections 5 and 6. In section 11, in subsection (2) the words "the Child Care Act 1980 and the Children's Homes Act 1982". In section 19, subsections (1) to (5). Schedule 1. In Schedule 2, paragraphs 3, 9 to 14, 20 to 24, 27, 28, 34, 37 and 46 to 62. In Schedule 4, paragraphs 38 to 48. In Schedule 9, paragraphs 5, 16 and 17.
1984 c. 23.	The Registered Homes Act 1984.	In Schedule 1, in paragraph 5, sub-paragraph (a) and paragraphs 6, 7 and 8.
1984 c. 28.	The County Courts Act 1984.	In Schedule 2, paragraph 56.
1984 c. 37.	The Child Abduction Act 1984.	In section 3, the word "and" immediately preceding paragraph (c).

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		In the Schedule, in paragraph 1(2) the words “or voluntary organisation” and paragraph 3(1)(e).
1984 c. 42.	The Matrimonial and Family Proceedings Act 1984.	In Schedule 1, paragraphs 19 and 23.
1984 c. 56.	The Foster Children (Scotland) Act 1984.	In section 1, the words “for a period of more than 6 days” and the words from “The period” to the end. In section 7(1), the word “or” at the end of paragraph (e). In Schedule 2, paragraphs 1 to 3 and 8.
1984 c. 60.	The Police and Criminal Evidence Act 1984.	In section 37(15), the words “and is not excluded from this Part of this Act by section 52 below”. Section 39(5). Section 52. In section 118(1), in the definition of parent or guardian, paragraph (b) and the word “and” immediately preceding it. In Schedule 2, the entry relating to section 16 of the Child Care Act 1980. In Schedule 6, paragraphs 19(a) and 22.
1985 c. 23.	The Prosecution of Offences Act 1985.	Section 27.
1985 c. 60.	The Child Abduction and Custody Act 1985.	Section 9(c). Section 20(2)(b) and (c). Section 25(3) and (5). In Schedule 3, paragraph 1(2).
1986 c. 28.	The Children and Young Persons (Amendment) Act 1986.	The whole Act.
1986 c. 33.	The Disabled Persons (Services, Consultation and Representation) Act 1986.	In section 16, in the definition of “guardian”, paragraph (a).

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1986 c. 45.	The Insolvency Act 1986.	In section 281(5)(b), the words “in domestic proceedings”.
1986 c. 50.	The Social Security Act 1986.	In Schedule 10, paragraph 51.
1986 c. 55.	The Family Law Act 1986.	In section 1(2), in paragraph (a) the words “(a) or” and paragraph (b). Section 3(4) to (6). Section 4. Section 35(1). In section 42(6), in paragraph (b) the words “section 42(6) of the Matrimonial Causes Act 1973 or”, in paragraph (c) the words “section 42(7) of that Act or” and in paragraph (d) the words “section 19(6) of the Domestic Proceedings and Magistrates’ Courts Act 1978 or”. In Schedule 1, paragraphs 10, 11, 13, 16, 17, 20 and 23.
1987 c. 42.	The Family Law Reform Act 1987.	Section 3. Sections 4 to 7. Sections 9 to 16. In Schedule 2, paragraphs 11, 14, 51, 67, 68, 94 and 95. In Schedule 3, paragraphs 11 and 12.
1988 c. 34.	The Legal Aid Act 1988.	Section 3(4)(c). Section 27. Section 28. In section 30, subsections (1) and (2). In Part I of Schedule 2, paragraph 2(a) and (e).

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