



Children Act 1989

1989 CHAPTER 41

PART IV

CARE AND SUPERVISION

Powers of court

38 Interim orders.

- (1) Where—
 - (a) in any proceedings on an application for a care order or supervision order, the proceedings are adjourned; or
 - (b) the court gives a direction under section 37(1),the court may make an interim care order or an interim supervision order with respect to the child concerned.
- (2) A court shall not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in section 31(2).
- (3) Where, in any proceedings on an application for a care order or supervision order, a court makes a residence order with respect to the child concerned, it shall also make an interim supervision order with respect to him unless satisfied that his welfare will be satisfactorily safeguarded without an interim order being made.
- (4) An interim order made under or by virtue of this section shall have effect for such period as may be specified in the order, but shall in any event cease to have effect on whichever of the following events first occurs—
 - (a) the expiry of the period of eight weeks beginning with the date on which the order is made;
 - (b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, the expiry of the relevant period;
 - (c) in a case which falls within subsection (1)(a), the disposal of the application;

Status: Point in time view as at 04/04/2005. This version of this provision has been superseded.

Changes to legislation: Children Act 1989, Section 38 is up to date with all changes known to be in force on or before 06 August 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)

- (d) in a case which falls within subsection (1)(b), the disposal of an application for a care order or supervision order made by the authority with respect to the child;
- (e) in a case which falls within subsection (1)(b) and in which—
 - (i) the court has given a direction under section 37(4), but
 - (ii) no application for a care order or supervision order has been made with respect to the child,
 the expiry of the period fixed by that direction.
- (5) In subsection (4)(b) “the relevant period” means—
 - (a) the period of four weeks beginning with the date on which the order in question is made; or
 - (b) the period of eight weeks beginning with the date on which the first order was made if that period ends later than the period mentioned in paragraph (a).
- (6) Where the court makes an interim care order, or interim supervision order, it may give such directions (if any) as it considers appropriate with regard to the medical or psychiatric examination or other assessment of the child; but if the child is of sufficient understanding to make an informed decision he may refuse to submit to the examination or other assessment.
- (7) A direction under subsection (6) may be to the effect that there is to be—
 - (a) no such examination or assessment; or
 - (b) no such examination or assessment unless the court directs otherwise.
- (8) A direction under subsection (6) may be—
 - (a) given when the interim order is made or at any time while it is in force; and
 - (b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.
- (9) Paragraphs 4 and 5 of Schedule 3 shall not apply in relation to an interim supervision order.
- (10) Where a court makes an order under or by virtue of this section it shall, in determining the period for which the order is to be in force, consider whether any party who was, or might have been, opposed to the making of the order was in a position to argue his case against the order in full.

Modifications etc. (not altering text)

- C1** S. 38 modified (26.7.2010) by [The Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(S.I. 2010/1898\)](#), regs. 1(2), **5(2)**
- C2** S. 38(1) restricted (14. 10. 1991) by [S.I. 1991/1395](#), rules. 1,28

Commencement Information

- I1** S. 38 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

Status:

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