
STATUTORY INSTRUMENTS

1991 No. 1990 (C.56)

CHILDREN AND YOUNG PERSONS

**The Children Act 1989 (Commencement No. 2—
Amendment and Transitional Provisions) Order 1991**

Made - - - - 4th September 1991

The Secretary of State for Health in exercise of the powers conferred by section 108(2) and (8) of the Children Act 1989⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Children Act 1989 (Commencement No. 2—Amendment and Transitional Provisions) Order 1991.

Amendment of Order

2. The Children Act 1989 (Commencement and Transitional Provisions) Order 1991⁽²⁾ shall be amended as follows—

- (a) In article 3(2) (commencement), after the words “in force” there shall be inserted the words “except section 5(11) and (12) (appointment of guardians to children’s estates),”;
- (b) After article 3(2) there shall be added to article 3 the following paragraph—
“(3) Section 5(11) and (12) of the Act shall come into force on 1 February 1992.”
- (c) The Schedule (additions to, and modifications of, Schedule 14 to the Children Act 1989) is amended with effect from 14 October 1991 in accordance with the Schedule to this Order.

(1) 1989 c. 41.
(2) S.I. No. 1991/828.

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Signed by authority of the Secretary of State for Health

4th September 1991

Virginia Bottomley
Minister of State,
Department of Health

SCHEDULE

Article 2(c)

AMENDMENTS TO THE SCHEDULE TO THE CHILDREN ACT 1989
(COMMENCEMENT AND TRANSITIONAL PROVISIONS) ORDER 1991

1. Before paragraph 1 there shall be inserted the following paragraphs—

1A.—(1) In paragraph 1(1), for the words “Subject to sub-paragraph (4)” there shall be substituted “Subject to sub-paragraphs (1A) and (4)”.

(2) After paragraph 1(1) there shall be inserted the following sub-paragraph—

“(1A) Proceedings pursuant to section 7(2) of the Family Law Reform Act 1969⁽³⁾ (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.”

1B.—(1) In paragraph 7(2), for the words “Parts I and II” there shall be substituted “Parts I and II and paragraph 15 of Schedule I”.

(2) After paragraph 7(3)(c) there shall be inserted the following—

“(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⁽⁴⁾, 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.”

1C. References in paragraphs 12, 13 and 14 to the commencement of section 5 shall be construed as references to the commencement of sub-sections (1) to (10) and (13) of that section except in relation to the appointment of a guardian of the estate of any child in which case they shall be construed as a reference to the commencement of sub-sections (11) and (12) of that section.

1D. In paragraph 16 after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(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.”

2. For paragraph 4 there shall be substituted—

4. In paragraph 16A⁽⁵⁾—

(a) after the number “16A.” there shall be inserted “—(1)”; and

(b) after sub-paragraph (1) there shall be inserted—

⁽³⁾ 1969 c. 46.

⁽⁴⁾ 1975 c. 72.

⁽⁵⁾ Paragraph 16A was inserted by paragraph 33(4) of Schedule 16 to the Courts and Legal Services Act 1990 (c. 41).

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“(2) Where immediately before the day on which Part IV commences a child was in the 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.

(3) Sub-paragraphs (1) and (2) do not apply in proceedings which are pending.”.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order postpones the coming into force of section 5(11) and (12) of the Children Act 1989 from 14th October 1991 to 1st February 1992. Those provisions concern the appointment of guardians to children’s estates.

Article 2 and the Schedule to the Order amend the schedule to the Children Act 1989 (Commencement and Transitional Provisions) Order 1991 “the first Order”) so as to further add to and modify the transitional provisions contained in Schedule 14 to the Children Act 1989 as follows:

Paragraph 1 inserts four new paragraphs before the first paragraph of the Schedule to the first Order. Paragraph 1A amends the provisions governing “pending proceedings” in paragraph 1 of Schedule 14 to the 1989 Act to restrict to one year the period for which proceedings in respect of a child who has been placed or allowed to remain in the care of the local authority pursuant to section 7(2) of the Family Law Reform Act 1969 or in the exercise of the inherent jurisdiction can be pending. Paragraph 1B allows local authorities to continue to make contributions towards the maintenance of a child living with a person as the result of a custodianship order so long as the order lasts. Paragraph 1C makes transitional provisions necessary as a result of the deferment of the coming into force of section 5(11) and (12). Paragraph 1D makes provision for the orders in proceedings which are treated in consequence of paragraph 1A as no longer pending to be treated as care orders under the 1989 Act.

Paragraph 2 makes modifications to paragraph 4 of the first Order as a consequence of the amendment to the provisions governing “pending proceedings”.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

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Under section 108(2) of the Children Act 1989, sections 89 and 96(3) to (7), and paragraph 35 of Schedule 12 came into force on 16th November 1989 and paragraph 36 of Schedule 12 came into force on 16th January 1990. By S.I.1991/828, paragraph 1 of Schedule 10 (adoption contact register) and section 88(ffi1) (for purposes related to that paragraph) came into force on 1st May 1991 and all other provisions of the Act (other than those the commencement of which is postponed by this Order) come into force on 14th October 1991.

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