



# Children Act 1975

## 1975 CHAPTER 72

### PART II

#### CUSTODY

##### *Custodianship orders*

#### **36 Provisions relating to lump sums.**

- (1) Before revoking a custodianship order the court shall ascertain who would have legal custody of the child, if, on the revocation of the custodianship order, no further order were made under this section.
- (2) If the child would not be in the legal custody of any person, the court shall, if it revokes the custodianship order, commit the care of the child to a specified local authority.
- (3) If there is a person who would have legal custody of the child on the revocation of the custodianship order, the court shall consider whether it is desirable in the interests of the welfare of the child for the child to be in the legal custody of that person and—
  - (a) if the court is of the opinion that it would not be so desirable, it shall on revoking the custodianship order commit the care of the child to a specified local authority;
  - (b) if it is of the opinion that while it is desirable for the child to be in the legal custody of that person, it is also desirable in the interests of the welfare of the child for him to be under the supervision of an independent person, the court shall, on revoking the custodianship order, order that the child shall be under the supervision of a specified local authority or of a probation officer.
- (4) Before exercising its functions under this section the court shall, unless it has sufficient information before it for the purpose, request—
  - (a) a local authority to arrange for an officer of the authority, or
  - (b) a probation officer,

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*Changes to legislation: There are currently no known outstanding effects for the Children Act 1975, Section 36. (See end of Document for details)*

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to make to the court a report, orally or in writing, on the desirability of the child returning to the legal custody of any individual, and it shall be the duty of the local authority or probation officer to comply with the request.

[<sup>F1</sup>(5) Where the court makes an order under subsection (3)(a) the order may require either parent to make to the local authority or to the child such periodical payments, and for such term, as may be specified in the order; but the order shall only require payments to be made to the local authority while it has the care of the child.

[ An order made under subsection (3)(a) with reference to an illegitimate child shall <sup>F2</sup>(5A) not require the father of that child to make any payments to the local authority or to the child.]

(5B) The court in deciding whether to exercise its powers under subsection (5) and, if so, in what manner, shall have regard to all the circumstances of the case including the matters to which the court is required to have regard under section 34A.

(5C) Section 34B shall apply in relation to an order under subsection (5) as it applies in relation to an order under section 34(1)(b).]

(6) Sections 3 and 4 of the <sup>M1</sup>Guardianship Act 1973 (which contain supplementary provisions relating to children who are subject to supervision, or in the care of local authority, by virtue of orders made under section 2 of that Act) apply in relation to an order under this section as they apply in relation to an order under section 2 of that Act [<sup>F3</sup>subject to the modification that the reference in section 4(2) of that Act to section 6 of that Act shall be construed as including a reference to subsection (4) of this section].

(7) Subsections (2) to (6) of section 6 of the Guardianship Act 1973 shall apply in relation to reports which are requested by magistrates' courts under this section as they apply to reports under subsection (1) of that section.

#### Textual Amendments

- F1** S. 36(5)–(5C) substituted for s. 36(5) by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22, SIF 49:3\)](#), s. 68, [Sch. 1](#)
- F2** S. 36(5A) repealed (E.W.) by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(1)(4), [Sch. 2 para. 63](#), [Sch. 4](#)
- F3** Words added by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22, SIF 49:3\)](#), s. 89, [Sch. 1](#), [Sch. 2 para. 46](#)

#### Marginal Citations

- M1** [1973 c. 29\(49:10\)](#).

**Changes to legislation:**

There are currently no known outstanding effects for the Children Act 1975, Section 36.