



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER I

PRELIMINARY

1 Orders to which Part I applies. **E+W+N.I.**

- (1) Subject to the following provisions of this section, in this Part “[^{F1}Part I order]” means—
- [^{F2}(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]
 - [^{F3}(aa) a special guardianship order made by a court in England and Wales under the Children Act 1989;
 - (ab) an order made under section 26 of the Adoption and Children Act 2002 (contact), other than an order varying or revoking such an order]
 - [^{F4}(ac) an order made under section 51A of the Adoption and Children Act 2002 (post-adoption contact), other than an order varying or revoking such an order;]
 - (b) an order made by a court of civil jurisdiction in Scotland under any enactment or rule of law with respect to the [^{F5}residence, custody, care or control of a child, contact with or], access to a child or the education or upbringing of a child, excluding—
 - (i) an order committing the care of a child to a local authority or placing a child under the supervision of a local authority;
 - [^{F6}(ii)
 - [^{F6}(iii)
 - (iv) an order [^{F7}giving parental responsibilities and parental rights in relation to] a child made in the course of proceedings for the adoption

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. *Skip to:* E+W+N.I. - England, Wales and Northern Ireland extent S - Scotland extent

Changes to legislation: Family Law Act 1986, Section 1 is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

of the child (other than an order made following the making of a direction under section 53(1) of the Children Act 1975);

(v) an order made under the ^{M1}Education (Scotland) Act 1980;

(vi) an order made under Part II or III of the ^{M2}Social Work (Scotland) Act 1968;

(vii) an order made under the ^{M3}Child Abduction and Custody Act 1985;

(viii) an order for the delivery of a child or other order for the enforcement of a [^{F1}Part I order];

(ix) an order relating to the tutory or curatory of a child;

[^{F8}(x) an adoption order (as defined in section 28(1) of the [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#));

(xi) a permanence order (as defined in subsection (2) of section 80 of that Act) which includes provision such as is mentioned in paragraph (c) of that subsection.]

[^{F9}(c) an Article 8 order made by a court in Northern Ireland under the Children (Northern Ireland) Order 1995, other than an order varying or discharging such an order;]

[^{F10}(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;]

[^{F11}(e) an order made by the High Court in Northern Ireland in the exercise of its inherent jurisdiction 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 discharging such an order;]

(2) In this Part “[^{F1}Part I order]” does not include—

^{F12}(a)

^{F13}(b)

^{F14}(c)

[^{F15}(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 [^{F16}or the Children (Northern Ireland) Order 1995, as the case may be]; and

(b) (subject to section 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.]

[^{F17}(3A) In subsection (1)(b)(xi) “permanence order” includes a deemed permanence order having effect by virtue of article 13(1), 14(2), 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions) Order 2009.]

(6) Provision may be made by act of sederunt prescribing, in relation to orders within subsection (1)(b) above, what constitutes an application for the purposes of this Part.

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W+N.I. - England, Wales and Northern Ireland extent S - Scotland extent

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Extent Information

- E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F1** Words in S. 1(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(2)(a)**(with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** S. 1(1)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F3** S. 1(1)(aa)(ab) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 47** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F4** S. 1(1)(ac) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(5)**, 139(6); S.I. 2014/889, **art. 4(a)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F5** Words in s. 1(1)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(a)**; S.I. 1996/2203, **art. 3, Sch.**
- F6** S. 1(1)(b)(ii)(iii) repealed (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**
- F7** Words in s. 1(1)(b)(iv) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(b)**; S.I. 1996/2203, **art. 3, Sch.**
- F8** S. 1(1)(b)(x)(xi) inserted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 para. 2(2)**
- F9** S. 1(1)(c) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(i)**; S.R. 1996/297, **para. 3**
- F10** S. 1(1)(d)(e) substituted (14.10.1991) for s. 1(1)(d) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(b)** (with Sch. 14 para. 1(1); S.I. 1991/828, **art. 3(2)**)
- F11** S. 1(1)(e) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(ii)**; S.R. 1996/297, **para. 3**
- F12** S. 1(2)(a) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F13** S. 1(2)(b) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F14** S. 1(2)(c) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F15** S. 1(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F16** Words in s. 1(3) inserted (4.11.1996) by S.I. 1995/756, **art. 12(2)(b)**; S.R. 1996/297, **para. 3**
- F17** S. 1(3A) inserted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 para. 2(3)**

Modifications etc. (not altering text)

- C2** S. 1(1)(b)(x) modified (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), reg. 1(2), **Sch. 4 para. 14**

Marginal Citations

- M1** 1980 c. 44.
M2 1968 c. 49.
M3 1985 c. 60.

1 Orders to which Part I applies. **S**

(1) Subject to the following provisions of this section, in this Part “[^{F18}Part I order]” means—

- [^{F19}(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]

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W+N.I. - England, Wales and Northern Ireland extent S - Scotland extent

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- [^{F3}(aa) a special guardianship order made by a court in England and Wales under the Children Act 1989;
- (ab) an order made under section 26 of the Adoption and Children Act 2002 (contact), other than an order varying or revoking such an order]
- [^{F4}(ac) an order made under section 51A of the Adoption and Children Act 2002 (post-adoption contact), other than an order varying or revoking such an order;]
- (b) an order made by a court of civil jurisdiction in Scotland under any enactment or rule of law with respect to the [^{F20}residence, custody, care or control of a child, contact with or], access to a child or the education or upbringing of a child, excluding—
 - (i) an order committing the care of a child to a local authority or placing a child under the supervision of a local authority;
 - ^{F21}(ii)
 - ^{F22}(iii)
 - (iv) an order [^{F23}giving parental responsibilities and parental rights in relation to] a child made in the course of proceedings for the adoption of the child (other than an order made following the making of a direction under section 53(1) of the Children Act 1975);
 - (v) an order made under the ^{M4}Education (Scotland) Act 1980;
 - (vi) an order made under Part II or III of the ^{M5}Social Work (Scotland) Act 1968;
 - (vii) an order made under the ^{M6}Child Abduction and Custody Act 1985;
 - (viii) an order for the delivery of a child or other order for the enforcement of a [^{F18}Part I order];
 - (ix) an order relating to the [^{F24}guardianship]of a child;
 - [^{F25}(x) an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007 (asp 4);
 - (xi) a permanence order (as defined in subsection (2) of section 80 of that Act) which includes provision such as is mentioned in paragraph (c) of that subsection]
- [^{F26}(c) an Article 8 order made by a court in Northern Ireland under the Children (Northern Ireland) Order 1995, other than an order varying or discharging such an order;]
- [^{F27}(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;]
- [^{F28}(e) an order made by the High Court in Northern Ireland in the exercise of its inherent jurisdiction 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 discharging such an order;]

(2) In this Part “[^{F18}Part I order]” does not include—

- ^{F29}(a)
- ^{F30}(b)
- ^{F31}(c)

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[^{F32}(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 [^{F33}or the Children (Northern Ireland) Order 1995, as the case may be]; and
- (b) (subject to section 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.]

[^{F17}(3A) In subsection (1)(b)(xi) “permanence order” includes a deemed permanence order having effect by virtue of article 13(1), 14(2), 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions) Order 2009.]

- (6) Provision may be made by act of sederunt prescribing, in relation to orders within subsection (1)(b) above, what constitutes an application for the purposes of this Part.

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Textual Amendments

- F3** S. 1(1)(aa)(ab) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 47** (with **Sch. 4** paras. 6-8); S.I. 2005/2213, art. 2(o)
- F4** S. 1(1)(ac) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(5)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F17** S. 1(3A) inserted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 para. 2(3)**
- F18** Words in S. 1(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(2)(a)** (with **Sch. 14** para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F19** S. 1(1)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(a)** (with **Sch. 14** para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F20** Words in s. 1(1)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(a)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F21** S. 1(1)(b)(ii) repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F22** S. 1(1)(b)(iii) repealed (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **sch. 3**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F23** Words in s. 1(1)(b)(iv) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(2)(b)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F24** Words in s. 1(1)(b)(ix) substituted (S.) (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), **ss. 10(1)**, 11(2), **Sch. 1 para. 44.**
- F25** S. 1(1)(b)(x)(xi) inserted (S.) (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), s. 121(2), **sch. 2 para. 5**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)
- F26** S. 1(1)(c) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(i)**; S.R. 1996/297, **para. 3**
- F27** S. 1(1)(d)(e) substituted (14.10.1991) for s. 1(1)(d) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(1)(b)** (with **Sch. 14** para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F28** S. 1(1)(e) substituted (4.11.1996) by S.I. 1995/756, **art. 12(2)(a)(ii)**; S.R. 1996/297, **para. 3**

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- F29** S. 1(2)(a) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F30** S. 1(2)(b) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**
- F31** S. 1(2)(c) repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F32** S. 1(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 63(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F33** Words in s. 1(3) inserted (4.11.1996) by S.I. 1995/756, **art. 12(2)(b)**; S.R. 1996/297, **para. 3**

Modifications etc. (not altering text)

- C2** S. 1(1)(b)(x) modified (21.12.2018) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2018 (S.I. 2018/1412), reg. 1(2), **Sch. 4 para. 14**
- C3** S. 1(1)(b)(x) modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 5, **Sch. 4**

Marginal Citations

- M4** 1980 c. 44.
- M5** 1968 c. 49.
- M6** 1985 c. 60.

Status:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1)(ca)-(cc) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 7](#)
- s. 2A(1)(1A) substituted for s. 2(1) by [1996 c. 27 Sch. 8 para. 37\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))
- s. 19(1A)-(1C) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 8](#)
- s. 29A inserted by [2020 asp 16 s. 29\(2\)](#)
- s. 38(4) inserted by [1996 c. 27 Sch. 8 para. 37\(9\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))