



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER II

JURISDICTION OF COURTS IN ENGLAND AND WALES

[^{F1}[^{F2} Jurisdiction: general.

(1) A court in England and Wales shall not make a section 1(1)(a) order with respect to a child unless—

- (a) it has jurisdiction under ^{F3}...[^{F4} the Hague Convention] , or
- (b) [^{F5}the Hague Convention does not apply] but—

- (i) the question of making the order arises in or in connection with matrimonial proceedings [^{F6}or civil partnership proceedings] and the condition in section 2A of this Act is satisfied, or
- (ii) the condition in section 3 of this Act is satisfied.]

[A court in England and Wales shall not have jurisdiction to make a special ^{F7}(2A) guardianship order under the Children Act 1989 unless the condition in section 3 of this Act is satisfied.

(2B) A court in England and Wales shall not have jurisdiction to make an order under section 26 of the Adoption and Children Act 2002 unless the condition in section 3 of this Act is satisfied.]

[A court in England and Wales shall not have jurisdiction to make an order under ^{F8}(2C) section 51A of the Adoption and Children Act 2002 unless—

- (a) it has jurisdiction under ^{F9}... the Hague Convention, or
- (b) [^{F10}the Hague Convention does not apply] but the condition in section 3 of this Act is satisfied.]

Changes to legislation: Family Law Act 1986, Section 2 is up to date with all changes known to be in force on or before 14 March 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

- [^{F11}(3) A court in England and Wales shall not make a section 1(1)(d) order unless—
- (a) it has jurisdiction under ^{F12}...[^{F13} the Hague Convention] , or
 - (b) [^{F14}the Hague Convention does not apply] but—
 - (i) the condition in section 3 of this Act is satisfied, or
 - (ii) 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.]]

Textual Amendments

- F1** S. 2 substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 64** (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)
- F2** S. 2(1) substituted for s. 2(1)(2) (1.3.2005) by The European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005 (S.I. 2005/265), regs. 1, **8(2)** (with reg. 20)
- F3** Words in s. 2(1)(a) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(2)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 2(1)(a) inserted (1.11.2012) 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), reg. 1(2), **Sch. para. 5(a)**
- F5** Words in s. 2(1)(b) substituted (31.12.2020) by The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(2)(b)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 2(1)(b)(i) inserted (5.12.2005) by The Civil Partnership (Family Proceedings and Housing Consequential Amendments) Order 2005 (S.I. 2005/3336), arts. 1, **5** (with art. 2(4))
- F7** S. 2(2A)(2B) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 48** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F8** S. 2(2C) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 9(6)**, 139(6); S.I. 2014/889, art. 4(a) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F9** Words in s. 2(2C)(a) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(2)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in s. 2(2C)(b) substituted (31.12.2020) by The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(2)(b)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F11** S. 2(3) substituted (1.3.2005) by The European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005 (S.I. 2005/265), regs. 1, **8(3)** (with reg. 20)
- F12** Words in s. 2(3)(a) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(2)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in s. 2(3)(a) inserted (1.11.2012) 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), reg. 1(2), **Sch. para. 5(c)**
- F14** Words in s. 2(3)(b) substituted (31.12.2020) by The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(2)(b)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

Family Law Act 1986, Section 2 is up to date with all changes known to be in force on or before 14 March 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.

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Changes and effects yet to be applied to :

- s. 2(1) substituted for s. 2(1)(2) by [1996 c. 27 Sch. 8 para. 37\(2\)](#) (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))

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))