



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER II

JURISDICTION OF COURTS IN ENGLAND AND WALES

3 Habitual residence or presence of child.

(1) The condition referred to in [F¹section 2(2)] of this Act is that on the relevant date the child concerned—

- (a) is habitually resident in England and Wales, or
- (b) is present in England and Wales and is not habitually resident in any part of the United Kingdom,

and, in either case, the jurisdiction of the court is not excluded by subsection (2) below.

(2) For the purposes of subsection (1) above, the jurisdiction of the court is excluded if, on the relevant date, [F²matrimonial proceedings] are continuing in a court in Scotland or Northern Ireland in respect of the marriage of the parents of the child concerned.

(3) Subsection (2) above shall not apply if the court in which the other proceedings there referred to are continuing has made—

- (a) an order under section 13(6) or 21(5) of this Act (not being an order made by virtue of section 13(6)(a)(i)), or
- (b) an order under section 14(2) or 22(2) of this Act which is recorded as made for the purpose of enabling [F³Part I proceedings with respect to] the child concerned to be taken in England and Wales,

and that order is in force.

F⁴(4)

Status: Point in time view as at 14/10/1991. This version of this provision has been superseded.

Changes to legislation: Family Law Act 1986, Section 3 is up to date with all changes known to be in force on or before 20 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)

- (5)
- (6)

Textual Amendments

- F1** Words in S. 3(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 65(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F2** Words in S. 3(2) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 65(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F3** Words in S. 3(3)(b) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(2)(b)** (with Sch. 14 para. 1(1); S.I. 1991/828, **art. 3(2)**)
- F4** S. 3(4)–(6) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

Status:

Point in time view as at 14/10/1991. This version of this provision has been superseded.

Changes to legislation:

Family Law Act 1986, Section 3 is up to date with all changes known to be in force on or before 20 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.