



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

42 General interpretation of Part I.

(1) In this Part—

“certified copy”, in relation to an order of any court, means a copy certified by the prescribed officer of the court to be a true copy of the order or of the official record of the order;

[^{F1}“parental responsibilities” and “parental rights” have the meanings respectively given by sections 1(3) and 2(4) of the Children (Scotland) Act 1995;]

“part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;

“prescribed” means prescribed by rules of court or act of sederunt.

^{F2}
...

[^{F3}“the Hague Convention” means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996.]

(2) For the purposes of this Part proceedings in England and Wales or in Northern Ireland for divorce, nullity or judicial separation in respect of the marriage of the parents of a child shall, unless they have been dismissed, be treated as continuing until the child concerned attains the age of [^{F4}eighteen—

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- (a) in the case of proceedings for a decree of divorce, nullity or judicial separation, whether or not a decree has been granted and whether or not (in the case of a decree of divorce or nullity of marriage) that decree has been made absolute;
- (b) in the case of proceedings for a divorce, nullity of marriage or judicial separation order, whether or not an order has been made and whether or not (in the case of a divorce or nullity of marriage order) that order has been made final.]

[^{F5}(2A) For the purposes of this Part proceedings in England and Wales or in Northern Ireland for dissolution, annulment or legal separation in respect of the civil partnership of the parents of the child shall, unless they have been dismissed, be treated as continuing until the child concerned attains the age of eighteen (whether or not a dissolution, nullity or separation order has been made and whether or not, in the case of a dissolution or nullity order, that order has been made final).]

(3) For the purposes of this Part, matrimonial proceedings [^{F6}or civil partnership proceedings] in a court in Scotland which has jurisdiction in those proceedings to make a [^{F7}Part I order] with respect to a child shall, unless they have been dismissed or decree of absolver has been granted therein, be treated as continuing until the child concerned attains the age of sixteen.

(4) Any reference in this Part to proceedings in respect of the marriage [^{F8}or civil partnership] of the parents of a child shall, in relation to a child who, although not a child of both parties to the marriage [^{F8}or civil partnership], is a child of the family of those parties, be construed as a reference to proceedings in respect of that marriage [^{F8}or civil partnership]; and for this purpose “child of the family”—

- (a) if the proceedings are in England and Wales, means any child who has been treated by both parties as a child of their family, except a child who [^{F9}is placed with those parties as foster parents] by a local authority or a voluntary organisation;
- (b) if the proceedings are in Scotland, means any child [^{F10}who has been treated by both parties as a child of their family, except a child who has been placed with those parties as foster parents by a local authority or a voluntary organisation;]
- (c) if the proceedings are in Northern Ireland, means any child who has been treated by both parties as a child of their family, except a child who [^{F11}is placed with those parties as foster parents by an authority within the meaning of the Children (Northern Ireland) Order 1995] or a voluntary organisation.

[^{F12}(4A) Any reference in this Part to proceedings in respect of the civil partnership of the parents of a child shall, in relation to a child who, although not a child of the civil partners, is a child of the family of the civil partners, be construed as a reference to proceedings in respect of that civil partnership; and for this purpose “child of the family” has the meaning given in paragraphs (a) to (c) of subsection (4) (but substituting references to the civil partners for references to the parties to the marriage).]

(5) References in this Part to custody orders include (except where the context otherwise requires) references to custody orders as varied.

(6) For the purposes of this Part each of the following orders shall be treated as varying the [^{F7}Part I order] to which it relates—

- (a) an order which provides for a person [^{F13}to be allowed contact with or] to be given access to a child who is the subject of a [^{F7}Part I order], or which makes provision for the education of such a child,

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^{F14}(b)

[^{F15}(7) In this Part—

- (a) references to Part I proceedings in respect of a child are references to any proceedings for a Part I order or an order corresponding to a Part I order and include, in relation to proceedings outside the United Kingdom, references to proceedings before a tribunal or other authority having power under the law having effect there to determine Part I matters; and
- (b) references to Part I matters are references to matters that might be determined by a Part I order or an order corresponding to a Part I order.]

Textual Amendments

- F1** S. 42(1): definition of "parental responsibilities" inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(9)(a)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F2** Words in s. 42(1) omitted (S.) (31.12.2020) by virtue of The Jurisdiction and Judgments (Family, Civil Partnership and Marriage (Same Sex Couples)) (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/104), reg. 1, **sch. 1 para. 2(6)** (with reg. 6) (as amended by S.S.I. 2020/441, regs. 1(2)(a), 16); 2020 c. 1, Sch. 5 para. 1(1) and (E.W.N.I.) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 15(6)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 42(1) inserted: (E.W.N.I.) (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. 9**; (S.) (1.11.2012) by The Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010 (S.S.I. 2010/213), reg. 1(2), **sch. para. 5**
- F4** Words in s. 42(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 51(4)**; S.I. 2022/283, reg. 2
- F5** S. 42(2A) inserted (E.W.N.I.) (5.12.2005) by The Civil Partnership (Family Proceedings and Housing Consequential Amendments) Order 2005 (S.I. 2005/3336), arts. 1, **19(2)** (with art. 2(4))
- F6** Words in s. 42(3) inserted (E.W.) (5.12.2005) by The Civil Partnership (Family Proceedings and Housing Consequential Amendments) Order 2005 (S.I. 2005/3336), arts. 1, **19(3)** (with art. 2(4)) and (S.) (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **17(2)**
- F7** Words in s. 42(3)(6)(6a) 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)**
- F8** Words in s. 42(4) inserted (S.) (5.12.2005) by The Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (S.S.I. 2005/623), arts. 1, **17(3)**
- F9** Words in s. 42(4)(a) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 71(1)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F10** Words in s. 42(4)(b) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 41(9)(b)**; S.I. 1996/2203, art. 3(3), **Sch**
- F11** Words in s. 42(4)(c) substituted (4.11.1996) by S.I. 1995/756, **art. 12(4)**; S.R. 1996/297, **para. 3**
- F12** S. 42(4A) inserted (E.W.N.I.) (5.12.2005) by The Civil Partnership (Family Proceedings and Housing Consequential Amendments) Order 2005 (S.I. 2005/3336), arts. 1, **19(4)** (with art. 2(4))
- F13** Words in s. 42(6)(a) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 71(2)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F14** S. 42(6)(b)-(d) and words repealed (4.11.1996) by S.I. 1995/756, art. 15, **Sch.**; S.R. 1996/297, **para. 3**
- F15** S. 42(7) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 62(3)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 42(2) words substituted by [1996 c. 27 Sch. 8 para. 37\(10\)](#) (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))