

Status: Point in time view as at 01/11/2007.

Changes to legislation: Courts and Legal Services Act 1990, SCHEDULE 16 is up to date with all changes known to be in force on or before 14 April 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)

SCHEDULES

SCHEDULE 16

Section 116.

CHILDREN ACT 1989

PART I

AMENDMENT OF ACT AND OTHER ENACTMENTS AFFECTED

1 In this Part of this Schedule “the Act of 1989” means the <sup>M1</sup>Children Act 1989.

Commencement Information	
I1	Sch. 16 para. 1 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.
Marginal Citations	
M1	1989 c. 41.

The Civil Evidence Act 1968 (c. 64)

- 2 (1) In section 12(5) of the Civil Evidence Act 1968 (findings of paternity in civil proceedings: meaning of “relevant proceedings”) for the definition of “relevant proceedings” there shall be substituted—
- ““relevant proceedings” means—
- (a) proceedings on a complaint under section 42 of the National Assistance Act 1948 or section 26 of the Social Security Act 1986;
  - (b) proceedings under the Children Act 1989;
  - (c) proceedings which would have been relevant proceedings for the purposes of this section in the form in which it was in force before the passing of the Children Act 1989.”
- (2) Paragraph 24 of Schedule 13 to the Act of 1989 shall be omitted.

Commencement Information	
I2	Sch. 16 para. 2 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

The Family Law Reform Act 1969 (c. 46)

<sup>F13</sup> .....

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**Textual Amendments**  
F1 Sch. 16 para. 3 repealed (1.4.2001) by 2000 c. 19, s. 85, Sch. 9 Pt. IX (with s. 83(6)); S.I. 2001/774, art. 2(d)

*The Children and Young Persons Act 1969 (c. 54)*

F24 .....

**Textual Amendments**  
F2 Sch. 16 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F35 .....

**Textual Amendments**  
F3 Sch. 16 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Administration of Justice Act 1970 (c. 31)*

- 6 (1) In paragraph 6 of Schedule 8 to the Administration of Justice Act 1970 (maintenance orders for purposes of Maintenance Orders Act 1958 and the 1970 Act) for the words “under section 47 or 51 of the Child Care Act 1980” there shall be substituted “—
- (a) made or having effect as if made under paragraph 23 of Schedule 2 to the Children Act 1989; or
  - (b) made under”.
- (2) Paragraph 25 of Schedule 13 to the Act of 1989 shall be omitted.

**Commencement Information**  
I3 Sch. 16 para. 6 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

*The Adoption Act 1976 (c. 36)*

F47 .....

**Textual Amendments**  
F4 Sch. 16 para. 7 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g) Table

*The Child Care Act 1980 (c. 5)*

- 8 After section 21(2) of the Child Care Act 1980 (power of local authority to allow child in care to be under charge and control of parent, etc.) there shall be inserted the following subsection—

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“(2A) For the purposes of subsection (2) above and section 22A below a child shall be regarded as being under the charge and control of a person if he stays with that person for a continuous period of more than 24 hours”.

**Commencement Information**

**I4** Sch. 16 para. 8 wholly in force at 1.1.1991 see s. 124(3) and S.I 1990/2484, art. 2, Sch.

*The Education Act 1981 (c. 60)*

- 9 (1) In section 3A(1) of the Education Act 1981 (provision outside England and Wales for certain children), which was inserted in that Act by paragraph 36 of Schedule 12 to the Act of 1989, after the word “local”, where it first occurs, there shall be inserted “ education” ”.
- (2) That amendment shall be deemed to have been incorporated in section 3A(1) as originally enacted.

**Commencement Information**

**I5** Sch. 16 para. 9 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

*The Children Act 1989 (c. 41)*

- 10 (1) In section 15(1) of the Children Act 1989 (orders for financial relief with respect to children) after the words “provisions of” there shall be inserted “ section 6 of the <sup>M2</sup>Family Law Reform Act 1969” ”.
- (2) At the end of paragraph 1 of Schedule 1 to the Act of 1989 (financial provision for children) there shall be inserted the following sub-paragraph—
- “(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.”

**Commencement Information**

**I6** Sch. 16 para. 10 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

**Marginal Citations**

**M2** 1969 c. 46.

- 11 In section 21(2)(c)(i) of the Act of 1989 (provision of accommodation for children on remand) after the word “section” there shall be inserted “ 16(3A) or” ”.

**Commencement Information**

**I7** Sch. 16 para. 11 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

- 12 (1) In section 23 of the Act of 1989 (provision of accommodation and maintenance made by local authority for children whom they are looking after), in subsection (2)(e)

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after the word “provided” there shall be inserted “ in accordance with arrangements made” ”.

(2) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) For the purposes of subsection (5) a child shall be regarded as living with a person if he stays with that person for a continuous period of more than 24 hours”.

#### Commencement Information

**I8** Sch. 16 para. 12 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

13 At the end of section 24 of the Act of 1989 (advice and assistance) there shall be added the following subsections—

“(14) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by a person qualifying for advice and assistance about the discharge of their functions under this Part in relation to him.

(15) In carrying out any consideration of representations under subsection (14), a local authority shall comply with any regulations made by the Secretary of State for the purposes of this subsection.”

#### Commencement Information

**I9** Sch. 16 para. 13 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

14 In section 27 of the Act of 1989 (co-operation between authorities)—

- (a) in subsection (1) the words “or other person” and the words “or person” shall be omitted; and
- (b) in subsection (3) for the word “persons” there shall be substituted “ authorities” ”<sup>F5</sup> . . . .

#### Textual Amendments

**F5** Words in Sch. 16 para. 14(b) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, Sch. 14 Pt. 1; S.I. 2004/749, art. 12

#### Commencement Information

**I10** Sch. 16 para. 14 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

15 In section 29 of the Act of 1989 (recoupment of cost of providing services etc.), in subsection (9), for the words “expenses reasonably” there shall be substituted “ reasonable expenses” ”.

#### Commencement Information

**I11** Sch. 16, para. 15 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

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- 16 In section 37 of the Act of 1989 (powers of court in certain family proceedings), in subsection (5)(b) for the words “does not reside” there shall be substituted “is not ordinarily resident”.

#### Commencement Information

I12 Sch. 16 para. 16 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

F6 17 .....

#### Textual Amendments

F6 Sch. 16 para. 17 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g) Table

- 18 (1) Section 42 of the Act of 1989 (right of guardian ad litem to have access to local authority records) shall be amended as follows.
- (2) In subsection (1)(a), after the word “authority” there shall be inserted “ or an authorised person”.
- (3) At the end of subsection (1) there shall be added—
- “; or
- (c) any records of, or held by, an authorised person which were compiled in connection with the activities of that person, so far as those records relate to that child.”
- (4) The following subsection shall be added at the end—
- “(4) In this section “authorised person” has the same meaning as in section 31.”

#### Commencement Information

I13 Sch. 16 para. 18 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

- 19 For section 45(10) of the Act of 1989 (appeals against emergency protection orders) there shall be substituted—
- “(10) No appeal may be made against—
- (a) the making of, or refusal to make, an emergency protection order;
- (b) the extension of, or refusal to extend, the period during which such an order is to have effect;
- (c) the discharge of, or refusal to discharge, such an order; or
- (d) the giving of, or refusal to give, any direction in connection with such an order.”

#### Commencement Information

I14 Sch. 16 para. 19 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

20 F7 .....

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#### Textual Amendments

- F7** Sch. 16 para. 20 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, Sch. 14 Pt. 1; S.I. 2004/749, art. 12

21 **F8** .....

#### Textual Amendments

- F8** Sch. 16 para. 21 repealed (7.6.2005) by Inquiries Act 2005 (c. 12), ss. 49(2), 51, Sch. 3 (with ss. 44, 50); S.I. 2005/1432, art. 2

- 22 In section 93(2) of the Act of 1989 (rules of court)—  
 (a) in paragraph (f) for the words “the United Kingdom” there shall be substituted “England and Wales” ”; and  
 (b) in paragraph (g) after the word “is” there shall be inserted “or resides” ”.

#### Commencement Information

- I15** Sch. 16 para. 22 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

- 23 In section 94(1) (appeals), for the first word “An” there shall be substituted “Subject to any express provisions to the contrary made by or under this Act, an” ”.

#### Commencement Information

- I16** Sch. 16 para. 23 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

- 24 In section 97(8) of the Act of 1989 (privacy for children involved in certain proceedings) for the words “Section 71 of the Act of 1980 (newspaper reports of certain proceedings)” there shall be substituted “Sections 69 (sittings of magistrates’ courts for family proceedings) and 71 (newspaper reports of certain proceedings) of the Act of 1980” ”.

#### Commencement Information

- I17** Sch. 16 para. 24 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

- 25 In section 108(12) of the Act of 1989 (provisions extending to Northern Ireland), in the entry relating to Schedule 14, the word “18” shall be omitted.

#### Commencement Information

- I18** Sch. 16 para. 25 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

- 26 In paragraph 14 of Schedule 2 to the Act of 1989 (regulations as to conditions under which child in care is allowed to live with parent, etc.), the following sub-paragraph shall be added at the end—  
 “(d) the records to be kept by local authorities.”

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**Commencement Information**

**I19** Sch. 16 para. 26 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

27 In Schedule 3 to the Act of 1989 (supervision orders) paragraph 7 shall be omitted.

**Commencement Information**

**I20** Sch. 16 para. 27 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

28 (1) In Schedule 4 to the Act of 1989 (management and conduct of community homes) the word “voluntary” wherever it occurs in paragraph 1(1), (2), (4), (5), (8) and (9) shall be omitted.

(2) In paragraph 1(6)(b)(i) of that Schedule, the words “as a voluntary home” shall be omitted.

**Commencement Information**

**I21** Sch. 16 para. 28 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

29 In paragraph 3(1) of Schedule 6 to the Act of 1989 (registered children’s homes – meaning of “responsible authority”) for the word “Part” there shall be substituted “Schedule”.

**Commencement Information**

**I22** Sch. 16 para. 29 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

30 (1) Paragraph 2 of Schedule 9 to the Act of 1989 (disqualification from registration as child minder etc. under section 71) shall be amended as follows.

(2) In sub-paragraph (1), there shall be added at the end “unless—  
(a) he has disclosed the fact to the appropriate local authority; and  
(b) obtained their written consent.”

(3) In sub-paragraph (2)(g), for “61” there shall be substituted “69”.

**Commencement Information**

**I23** Sch. 16 para. 30 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

31 In Schedule 12 to the Act of 1989 (minor amendments), paragraph 25 (which amended section 16 of the Children and Young Persons Act 1969) shall be omitted.

**Commencement Information**

**I24** Sch. 16 para. 31 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

32 In Schedule 13 to the Act of 1989 (consequential amendments), paragraph 40 shall be omitted.

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#### Commencement Information

**I25** Sch. 16 para. 32 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

33 (1) Schedule 14 to the Act of 1989 (transitionals and savings) shall be amended as follows.

(2) In paragraph 15 (children in compulsory care) at the end of sub-paragraph (1) there shall be added “; or—

(h) in care by virtue of an order of the court made in the exercise of the High Court’s inherent jurisdiction with respect to children,”.

(3) In paragraph 16 (modifications)—

(a) in sub-paragraph (4), for the word “(g)” there shall be substituted “(h)” ; and

(b) in sub-paragraph (5) for the words from “under” to “1973” there shall be substituted “—

(a) under section 4(4)(a) of the Guardianship Act 1973;

(b) under section 43(5)(a) of the Matrimonial Causes Act 1973;  
or

(c) in the exercise of the High Court’s inherent jurisdiction with respect to children,”.

(4) After paragraph 16 there shall be inserted the following paragraph—

*“ Cessation of wardship where ward in care*

16A Where a child who is a ward of court is in care by virtue of—

(a) an order under section 7(2) of the Family Law Reform Act 1969; or

(b) an order made in the exercise of the High Court’s inherent jurisdiction with respect to children,

he shall, on the day on which Part IV commences, cease to be a ward of court.”

(5) In paragraph 22(a) for the word “(g)” there shall be substituted “(h)” .

(6) In paragraph 36(5)(b) for the words “subsection (4)” there shall be substituted “subsection (6)” .

#### Commencement Information

**I26** Sch. 16 para. 33 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

## PART II

### FURTHER CONSEQUENTIAL AMENDMENTS

#### *The Maintenance Orders Act 1950 (c. 37)*

34 In section 15(1)(a) of the Maintenance Orders Act 1950 (service of process), for sub-paragraphs (iii) and (iv) there shall be substituted—



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- “(iii) section 92 of and Schedule 11 to the Children Act 1989; or  
(iv) section 93(2)(g) of that Act (including that provision as applied in relation to Northern Ireland by section 116(3) of the Courts and Legal Services Act 1990)”.

#### Commencement Information

**I27** Sch. 16 para. 34 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

- 35 In section 16(2)(a) of that Act (application of Part II)—  
(a) for sub-paragraph (iii) there shall be substituted—  
“(iii) Schedule 1 to the Children Act 1989”; and  
(b) in sub-paragraph (v), for the words “section 47 of the <sup>M3</sup>Child Care Act 1980” there shall be substituted “ paragraph 23 of Schedule 2 to the <sup>M4</sup>Children Act 1989” ”.

#### Commencement Information

**I28** Sch. 16 para. 35 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

#### Marginal Citations

**M3** 1980 c. 5.

**M4** 1989 c. 41.

#### *The Social Work (Scotland) Act 1968 (c. 49)*

- 36 In section 94(1) of the Social Work (Scotland) Act 1968 (interpretation), in the definition of “supervision order” for the words from first “has” to “1969” there shall be substituted “ means a supervision order under the Children and Young Persons Act 1969 or the Children Act 1989” ”.

#### Commencement Information

**I29** Sch. 16 para. 36 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

#### *The Administration of Justice Act 1970 (c. 31)*

- 37 (1) In Schedule 8 to the Administration of Justice Act 1970 (maintenance orders for purposes of Maintenance Orders Act 1958 and the 1970 Act), for paragraph 4 there shall be substituted—  
“4 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989.”  
(2) Paragraph 12 of that Schedule shall cease to have effect.

#### Commencement Information

**I30** Sch. 16 para. 37 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

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*The Attachment of Earnings Act 1971 (c. 32)*

- 38 In Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which Act of 1971 applies) for paragraph 5 there shall be substituted—
- “5 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989.”

**Commencement Information**  
**I31** Sch. 16 para. 38 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

*The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)*

- 39 <sup>F9</sup>(1) . . . . .
- <sup>F9</sup>(2) . . . . .
- (3) In section 30 of that Act (further provisions relating to recovery in England, Wales and Northern Ireland of maintenance for children) subsections (1), (2) and (6) shall cease to have effect.

**Textual Amendments**  
**F9** Sch. 16 para. 39(1)(2) repealed (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56, SIF 49:3), s. 2(2), Sch.3; S.I. 1993/618, art. 2.

**Commencement Information**  
**I32** Sch. 16 para. 39 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

*The Magistrates’ Courts Act 1980 (c. 43)*

- 40 In section 65(1) of the Magistrates’ Courts Act 1980 (meaning of family proceedings), paragraph (k) shall be omitted.

**Commencement Information**  
**I33** Sch. 16 para. 40 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

*The Civil Jurisdiction and Judgments Act 1982 (c. 27)*

- 41 In section 18(6) of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) for paragraph (b) there shall be substituted—
- “(b) any order which is a Part I order for the purposes of the Family Law Act 1986.”

**Commencement Information**  
**I34** Sch. 16 para. 41 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

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*The Mental Health Act 1983 (c.20)*

42 In section 116(2) of the Mental Health Act 1983 (visiting of patients who are children) for paragraph (a) there shall be substituted—

“(a) a child or young person—

- (i) who is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989, or
- (ii) in respect of whom the rights and powers of a parent are vested in a local authority by virtue of section 16 of the Social Work (Scotland) Act 1968;”.

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**Commencement Information**

**I35** Sch. 16 para. 42 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

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