Children and Adoption Act 2006

2006 CHAPTER 20

An Act to make provision as regards contact with children; to make provision as regards family assistance orders; to make provision about risk assessments; to make provision as regards adoptions with a foreign element; and for connected purposes. [21st June 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

Contact with children

1 Contact activity directions and conditions

After section 11 of the Children Act 1989 (c. 41) insert—

"**11A Contact activity directions**

(1) This section applies in proceedings in which the court is considering whether to make provision about contact with a child by making—
  (a) a contact order with respect to the child, or
  (b) an order varying or discharging a contact order with respect to the child.

(2) The court may make a contact activity direction in connection with that provision about contact.

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(3) A contact activity direction is a direction requiring an individual who is a party to the proceedings to take part in an activity that promotes contact with the child concerned.

(4) The direction is to specify the activity and the person providing the activity.

(5) The activities that may be so required include, in particular—

(a) programmes, classes and counselling or guidance sessions of a kind that—

(i) may assist a person as regards establishing, maintaining or improving contact with a child;

(ii) may, by addressing a person's violent behaviour, enable or facilitate contact with a child;

(b) sessions in which information or advice is given as regards making or operating arrangements for contact with a child, including making arrangements by means of mediation.

(6) No individual may be required by a contact activity direction—

(a) to undergo medical or psychiatric examination, assessment or treatment;

(b) to take part in mediation.

(7) A court may not on the same occasion—

(a) make a contact activity direction, and

(b) dispose finally of the proceedings as they relate to contact with the child concerned.

(8) Subsection (2) has effect subject to the restrictions in sections 11B and 11E.

(9) In considering whether to make a contact activity direction, the welfare of the child concerned is to be the court's paramount consideration.

11B Contact activity directions: further provision

(1) A court may not make a contact activity direction in any proceedings unless there is a dispute as regards the provision about contact that the court is considering whether to make in the proceedings.

(2) A court may not make a contact activity direction requiring an individual who is a child to take part in an activity unless the individual is a parent of the child in relation to whom the court is considering provision about contact.

(3) A court may not make a contact activity direction in connection with the making, variation or discharge of a contact order, if the contact order is, or would if made be, an excepted order.

(4) A contact order with respect to a child is an excepted order if—

(a) it is made in proceedings that include proceedings on an application for a relevant adoption order in respect of the child; or

(b) it makes provision as regards contact between the child and a person who would be a parent or relative of the child but for the child's adoption by an order falling within subsection (5).

(5) An order falls within this subsection if it is—

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(a) a relevant adoption order;

(b) an adoption order, within the meaning of section 72(1) of the Adoption Act 1976, other than an order made by virtue of section 14 of that Act on the application of a married couple one of whom is the mother or the father of the child;

(c) a Scottish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made—

(i) by virtue of section 14 of the Adoption (Scotland) Act 1978 on the application of a married couple one of whom is the mother or the father of the child, or

(ii) by virtue of section 15(1)(aa) of that Act; or

(d) a Northern Irish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made by virtue of Article 14 of the Adoption (Northern Ireland) Order 1987 on the application of a married couple one of whom is the mother or the father of the child.

(6) A relevant adoption order is an adoption order, within the meaning of section 46(1) of the Adoption and Children Act 2002, other than an order made—

(a) on an application under section 50 of that Act by a couple (within the meaning of that Act) one of whom is the mother or the father of the person to be adopted, or

(b) on an application under section 51(2) of that Act.

(7) A court may not make a contact activity direction in relation to an individual unless the individual is habitually resident in England and Wales; and a direction ceases to have effect if the individual subject to the direction ceases to be habitually resident in England and Wales.

11C Contact activity conditions

(1) This section applies if in any family proceedings the court makes—

(a) a contact order with respect to a child, or

(b) an order varying a contact order with respect to a child.

(2) The contact order may impose, or the contact order may be varied so as to impose, a condition (a "contact activity condition") requiring an individual falling within subsection (3) to take part in an activity that promotes contact with the child concerned.

(3) An individual falls within this subsection if he is—

(a) for the purposes of the contact order so made or varied, the person with whom the child concerned lives or is to live;

(b) the person whose contact with the child concerned is provided for in that order; or

(c) a person upon whom that order imposes a condition under section 11(7)(b).

(4) The condition is to specify the activity and the person providing the activity.

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(5) Subsections (5) and (6) of section 11A have effect as regards the activities that may be required by a contact activity condition as they have effect as regards the activities that may be required by a contact activity direction.

(6) Subsection (2) has effect subject to the restrictions in sections 11D and 11E.

11D Contact activity conditions: further provision

(1) A contact order may not impose a contact activity condition on an individual who is a child unless the individual is a parent of the child concerned.

(2) If a contact order is an excepted order (within the meaning given by section 11B(4)), it may not impose (and it may not be varied so as to impose) a contact activity condition.

(3) A contact order may not impose a contact activity condition on an individual unless the individual is habitually resident in England and Wales; and a condition ceases to have effect if the individual subject to the condition ceases to be habitually resident in England and Wales.

11E Contact activity directions and conditions: making

(1) Before making a contact activity direction (or imposing a contact activity condition by means of a contact order), the court must satisfy itself as to the matters falling within subsections (2) to (4).

(2) The first matter is that the activity proposed to be specified is appropriate in the circumstances of the case.

(3) The second matter is that the person proposed to be specified as the provider of the activity is suitable to provide the activity.

(4) The third matter is that the activity proposed to be specified is provided in a place to which the individual who would be subject to the direction (or the condition) can reasonably be expected to travel.

(5) Before making such a direction (or such an order), the court must obtain and consider information about the individual who would be subject to the direction (or the condition) and the likely effect of the direction (or the condition) on him.

(6) Information about the likely effect of the direction (or the condition) may, in particular, include information as to—
   (a) any conflict with the individual's religious beliefs;
   (b) any interference with the times (if any) at which he normally works or attends an educational establishment.

(7) The court may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) to (5); and it shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any such request.

(8) In this section “specified” means specified in a contact activity direction (or in a contact activity condition).

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11F Contact activity directions and conditions: financial assistance

(1) The Secretary of State may by regulations make provision authorising him to make payments to assist individuals falling within subsection (2) in paying relevant charges or fees.

(2) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child, not being a child ordinarily resident in Wales.

(3) The National Assembly for Wales may by regulations make provision authorising it to make payments to assist individuals falling within subsection (4) in paying relevant charges or fees.

(4) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child who is ordinarily resident in Wales.

(5) A relevant charge or fee, in relation to an activity required by a contact activity direction or condition, is a charge or fee in respect of the activity payable to the person providing the activity.

(6) Regulations under this section may provide that no assistance is available to an individual unless—
   (a) the individual satisfies such conditions as regards his financial resources as may be set out in the regulations;
   (b) the activity in which the individual is required by a contact activity direction or condition to take part is provided to him in England or Wales;
   (c) where the activity in which the individual is required to take part is provided to him in England, it is provided by a person who is for the time being approved by the Secretary of State as a provider of activities required by a contact activity direction or condition;
   (d) where the activity in which the individual is required to take part is provided to him in Wales, it is provided by a person who is for the time being approved by the National Assembly for Wales as a provider of activities required by a contact activity direction or condition.

(7) Regulations under this section may make provision—
   (a) as to the maximum amount of assistance that may be paid to or in respect of an individual as regards an activity in which he is required by a contact activity direction or condition to take part;
   (b) where the amount may vary according to an individual's financial resources, as to the method by which the amount is to be determined;
   (c) authorising payments by way of assistance to be made directly to persons providing activities required by a contact activity direction or condition.

11G Contact activity directions and conditions: monitoring

(1) This section applies if in any family proceedings the court—
   (a) makes a contact activity direction in relation to an individual, or

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(b) makes a contact order that imposes, or varies a contact order so as to impose, a contact activity condition on an individual.

(2) The court may on making the direction (or imposing the condition by means of a contact order) ask an officer of the Service or a Welsh family proceedings officer—

(a) to monitor, or arrange for the monitoring of, the individual's compliance with the direction (or the condition);

(b) to report to the court on any failure by the individual to comply with the direction (or the condition).

(3) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).”

Commencement Information

I1 S. 1 in force at 7.11.2008 for specified purposes by S.I. 2008/2870, **art. 2(1)**

2 Monitoring contact

After section 11G of the Children Act 1989 (c. 41) (as inserted by section 1) insert—

“**11H Monitoring contact**

(1) This section applies if in any family proceedings the court makes—

(a) a contact order with respect to a child in favour of a person, or

(b) an order varying such a contact order.

(2) The court may ask an officer of the Service or a Welsh family proceedings officer—

(a) to monitor whether an individual falling within subsection (3) complies with the contact order (or the contact order as varied);

(b) to report to the court on such matters relating to the individual's compliance as the court may specify in the request.

(3) An individual falls within this subsection if the contact order so made (or the contact order as so varied)—

(a) requires the individual to allow contact with the child concerned;

(b) names the individual as having contact with the child concerned; or

(c) imposes a condition under section 11(7)(b) on the individual.

(4) If the contact order (or the contact order as varied) includes a contact activity condition, a request under subsection (2) is to be treated as relating to the provisions of the order other than the contact activity condition.

(5) The court may make a request under subsection (2)—

(a) on making the contact order (or the order varying the contact order), or

(b) at any time during the subsequent course of the proceedings as they relate to contact with the child concerned.

(6) In making a request under subsection (2), the court is to specify the period for which the officer of the Service or Welsh family proceedings officer is to

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monitor compliance with the order; and the period specified may not exceed twelve months.

(7) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).

(8) The court may order any individual falling within subsection (3) to take such steps as may be specified in the order with a view to enabling the officer of the Service or Welsh family proceedings officer to comply with the court's request under subsection (2).

(9) But the court may not make an order under subsection (8) with respect to an individual who is a child unless he is a parent of the child with respect to whom the order falling within subsection (1) was made.

(10) A court may not make a request under subsection (2) in relation to a contact order that is an excepted order (within the meaning given by section 11B(4)).”

Commencement Information
I2 S. 2 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(b)**

3 Contact orders: warning notices

After section 11H of the Children Act 1989 (c. 41) (as inserted by section 2) insert—

“**11I Contact orders: warning notices**

Where the court makes (or varies) a contact order, it is to attach to the contact order (or the order varying the contact order) a notice warning of the consequences of failing to comply with the contact order.”

Commencement Information
I3 S. 3 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(b)**

4 Enforcement orders

(1) After section 11I of the Children Act 1989 (as inserted by section 3) insert—

“**11J Enforcement orders**

(1) This section applies if a contact order with respect to a child has been made.

(2) If the court is satisfied beyond reasonable doubt that a person has failed to comply with the contact order, it may make an order (an “enforcement order”) imposing on the person an unpaid work requirement.

(3) But the court may not make an enforcement order if it is satisfied that the person had a reasonable excuse for failing to comply with the contact order.

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(4) The burden of proof as to the matter mentioned in subsection (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.

(5) The court may make an enforcement order in relation to the contact order only on the application of—
   (a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;
   (b) the person whose contact with the child concerned is provided for in the contact order;
   (c) any individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or
   (d) the child concerned.

(6) Where the person proposing to apply for an enforcement order in relation to a contact order is the child concerned, the child must obtain the leave of the court before making such an application.

(7) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.

(8) Subsection (2) has effect subject to the restrictions in sections 11K and 11L.

(9) The court may suspend an enforcement order for such period as it thinks fit.

(10) Nothing in this section prevents a court from making more than one enforcement order in relation to the same person on the same occasion.

(11) Proceedings in which any question of making an enforcement order, or any other question with respect to such an order, arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.

(12) In Schedule A1—
   (a) Part 1 makes provision as regards an unpaid work requirement;
   (b) Part 2 makes provision in relation to the revocation and amendment of enforcement orders and failure to comply with such orders.

(13) This section is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to contact orders.

11K Enforcement orders: further provision

(1) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—
   (a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;
   (b) in any other case, a notice under section 11I relating to the contact order.

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(2) A court may not make an enforcement order against a person in respect of any failure to comply with a contact order occurring before the person attained the age of 18.

(3) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).

(4) A court may not make an enforcement order against a person unless the person is habitually resident in England and Wales; and an enforcement order ceases to have effect if the person subject to the order ceases to be habitually resident in England and Wales.

11L Enforcement orders: making

(1) Before making an enforcement order as regards a person in breach of a contact order, the court must be satisfied that—
   (a) making the enforcement order proposed is necessary to secure the person's compliance with the contact order or any contact order that has effect in its place;
   (b) the likely effect on the person of the enforcement order proposed to be made is proportionate to the seriousness of the breach of the contact order.

(2) Before making an enforcement order, the court must satisfy itself that provision for the person to work under an unpaid work requirement imposed by an enforcement order can be made in the local justice area in which the person in breach resides or will reside.

(3) Before making an enforcement order as regards a person in breach of a contact order, the court must obtain and consider information about the person and the likely effect of the enforcement order on him.

(4) Information about the likely effect of the enforcement order may, in particular, include information as to—
   (a) any conflict with the person's religious beliefs;
   (b) any interference with the times (if any) at which he normally works or attends an educational establishment.

(5) A court that proposes to make an enforcement order may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) and (3).

(6) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.

(7) In making an enforcement order in relation to a contact order, a court must take into account the welfare of the child who is the subject of the contact order.

11M Enforcement orders: monitoring

(1) On making an enforcement order in relation to a person, the court is to ask an officer of the Service or a Welsh family proceedings officer—

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(a) to monitor, or arrange for the monitoring of, the person's compliance with the unpaid work requirement imposed by the order;

(b) to report to the court if a report under paragraph 8 of Schedule A1 is made in relation to the person;

(c) to report to the court on such other matters relating to the person's compliance as may be specified in the request;

(d) to report to the court if the person is, or becomes, unsuitable to perform work under the requirement.

(2) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.

11N Enforcement orders: warning notices

Where the court makes an enforcement order, it is to attach to the order a notice warning of the consequences of failing to comply with the order.”

(2) Schedule 1 (which contains a Schedule to be inserted before Schedule 1 to the Children Act 1989 (c. 41)) has effect.

Commencement Information

I4 S. 4 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(c)**

5 Compensation for financial loss

After section 11N of the Children Act 1989 (as inserted by section 4) insert—

“**11O Compensation for financial loss**

(1) This section applies if a contact order with respect to a child has been made.

(2) If the court is satisfied that—

(a) an individual has failed to comply with the contact order, and

(b) a person falling within subsection (6) has suffered financial loss by reason of the breach,

it may make an order requiring the individual in breach to pay the person compensation in respect of his financial loss.

(3) But the court may not make an order under subsection (2) if it is satisfied that the individual in breach had a reasonable excuse for failing to comply with the contact order.

(4) The burden of proof as to the matter mentioned in subsection (3) lies on the individual claiming to have had a reasonable excuse.

(5) An order under subsection (2) may be made only on an application by the person who claims to have suffered financial loss.

(6) A person falls within this subsection if he is—

(a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;

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(b) the person whose contact with the child concerned is provided for in the contact order;

(c) an individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or

(d) the child concerned.

(7) Where the person proposing to apply for an order under subsection (2) is the child concerned, the child must obtain the leave of the court before making such an application.

(8) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.

(9) The amount of compensation is to be determined by the court, but may not exceed the amount of the applicant's financial loss.

(10) In determining the amount of compensation payable by the individual in breach, the court must take into account the individual's financial circumstances.

(11) An amount ordered to be paid as compensation may be recovered by the applicant as a civil debt due to him.

(12) Subsection (2) has effect subject to the restrictions in section 11P.

(13) Proceedings in which any question of making an order under subsection (2) arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.

(14) In exercising its powers under this section, a court is to take into account the welfare of the child concerned.

11P Orders under section 11O(2): further provision

(1) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order unless it is satisfied that before the failure occurred the individual had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—

(a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;

(b) in any other case, a notice under section 11I relating to the contact order.

(2) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order where the failure occurred before the individual attained the age of 18.

(3) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).”

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Commencement Information
I5 S. 5 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(d)**

Family assistance orders

6 Provision as to family assistance orders

(1) Section 16 of the Children Act 1989 (c. 41) (family assistance orders) is amended as follows.

(2) In subsection (3) (requirements for making an order), omit paragraph (a) (requirement that circumstances of case be exceptional).

(3) After subsection (4) insert—

"(4A) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a contact order made with respect to the child, the family assistance order may direct the officer concerned to give advice and assistance as regards establishing, improving and maintaining contact to such of the persons named in the order as may be specified in the order."

(4) In subsection (5) (maximum duration of order) for "six months" substitute " twelve months ".

(5) For subsection (6) substitute—

"(6) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a section 8 order made with respect to the child, the family assistance order may direct the officer concerned to report to the court on such matters relating to the section 8 order as the court may require (including the question whether the section 8 order ought to be varied or discharged)."

Commencement Information
I6 S. 6 in force at 1.10.2007 by S.I. 2007/2287, **art. 1(2)(a)**

Risk assessments

7 Risk assessments

After section 16 of the Children Act 1989 (c. 41) insert—

"**16A Risk assessments**

(1) This section applies to the following functions of officers of the Service or Welsh family proceedings officers—

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(a) any function in connection with family proceedings in which the court has power to make an order under this Part with respect to a child or in which a question with respect to such an order arises;

(b) any function in connection with an order made by the court in such proceedings.

(2) If, in carrying out any function to which this section applies, an officer of the Service or a Welsh family proceedings officer is given cause to suspect that the child concerned is at risk of harm, he must—

(a) make a risk assessment in relation to the child, and

(b) provide the risk assessment to the court.

(3) A risk assessment, in relation to a child who is at risk of suffering harm of a particular sort, is an assessment of the risk of that harm being suffered by the child.”

Commencement Information

I7 S. 7 in force at 1.10.2007 by S.I. 2007/2287, **art. 1(2)(b)**

Transitional provision

8 Transitional provision

(1) This section applies to any contact order under section 8 of the Children Act 1989 made before, and in force on, the relevant date.

(2) For so long as a contact order to which this section applies continues in force on and after the relevant date without being varied, the circumstances in which a notice under section 11I of the Children Act 1989 is to be attached to the contact order include—

(a) where an application for such a notice to be attached to the contact order is made by a person who, as regards the order, falls within any of paragraphs (a) to (d) of section 11J(5) of the Children Act 1989;

(b) where, in any family proceedings, a question arises with respect to the contact order.

(3) Where the person proposing to apply under subsection (2)(a) is the child with respect to whom the contact order was made, subsections (6) and (7) of section 11J have effect in relation to the application under subsection (2)(a) as they have effect in relation to an application under section 11J for an enforcement order.

(4) If a failure to comply with a contact order to which this section applies occurs while the contact order continues in force as described in subsection (2), each of sections 11K(1) and 11P(1) of the Children Act 1989 is to have effect, in relation to the failure, as if for paragraphs (a) and (b) there were substituted “ a notice under section 11I relating to the contact order ”.

(5) In this section “relevant date” means the day on which sections 3 to 5 come into force.

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Commencement Information

I8 S. 8 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(d)**

PART 2

ADOPTIONS WITH A FOREIGN ELEMENT

9 Declaration of special restrictions on adoptions from abroad

(1) This section applies if the Secretary of State has reason to believe that, because of practices taking place in a country or territory outside the British Islands (the "other country") in connection with the adoption of children, it would be contrary to public policy to further the bringing of children into the United Kingdom in the cases mentioned in subsection (2).

(2) The cases are that a British resident—

(a) wishes to bring, or cause another to bring, a child who is not a British resident into the United Kingdom for the purpose of adoption by the British resident, and, in connection with the proposed adoption, there have been, or would have to be, proceedings in the other country or dealings with authorities or agencies there, or

(b) wishes to bring, or cause another to bring, into the United Kingdom a child adopted by the British resident under an adoption effected, within the period of twelve months ending with the date of the bringing in, under the law of the other country.

(3) It is immaterial whether the other country is a Convention country or not.

(4) The Secretary of State may by order declare, in relation to any such country or territory, that special restrictions are to apply for the time being in relation to the bringing in of children in the cases mentioned in subsection (2).

(5) Before making an order containing such a declaration the Secretary of State must consult—

(a) the National Assembly for Wales, and

(b) the Department of Health, Social Services and Public Safety in Northern Ireland.

(6) A country or territory in relation to which such a declaration has effect for the time being is referred to below in this section as a "restricted country".

(7) The Secretary of State must publish reasons for making the declaration in relation to each restricted country.

(8) The Secretary of State must publish a list of restricted countries ("the restricted list") and keep the list up to date.

(9) The restricted list and the reasons are to be published in whatever way the Secretary of State thinks appropriate for bringing them to the attention of adoption agencies and members of the public.

(10) In this section—

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(a) "British resident" means a person habitually resident in the British Islands, and the reference to adoption by a British resident includes adoption by a British resident and another person,

(b) "the Convention" means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at The Hague on 29th May 1993,

(c) "Convention country" means a country or territory in which the Convention is in force.

Commencement Information

I9 S. 9(1)-(3)(5)-(10) in force at 1.8.2008 by S.I. 2008/1798, **art. 2(2)(a)**

I10 S. 9(4) in force at 7.7.2008 by S.I. 2008/1798, **art. 2(1)(a)**

10 Review

(1) The Secretary of State must keep under review, in relation to each restricted country, whether it should continue to be a restricted country.

(2) If the Secretary of State determines, in relation to a restricted country, that there is no longer reason to believe what is mentioned in subsection (1) of section 9, he must by order revoke the order containing the declaration made in relation to it under subsection (4) of that section.

(3) Before making a determination under subsection (2), the Secretary of State must consult—

(a) the National Assembly for Wales, and

(b) the Department of Health, Social Services and Public Safety in Northern Ireland.

(4) In this section, "restricted country" has the same meaning as in section 9.

Commencement Information

I11 S. 10 in force at 1.8.2008 by S.I. 2008/1798, **art. 2(2)(b)**

11 The special restrictions

(1) The special restrictions mentioned in section 9(4) are that, except as mentioned in subsection (2) of this section, the appropriate authority is not to take any step which he or it might otherwise have taken in connection with furthering the bringing of a child into the United Kingdom in the cases mentioned in section 9(2) (whether or not that step is provided for by or by virtue of any enactment).

(2) But nothing in subsection (1) prevents the appropriate authority from taking those steps if, in any particular case, the prospective adopters satisfy—

(a) the appropriate authority, or

(b) in relation to Northern Ireland, in a case which is not a Convention case, the Secretary of State,

that the appropriate authority should take those steps despite the special restrictions.

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(3) The Secretary of State may make regulations providing for—

(a) the procedure to be followed by the appropriate authority (or, if subsection (2)(b) applies, the Secretary of State) in determining whether or not he or it is satisfied as mentioned in subsection (2),

(b) matters which the appropriate authority (or the Secretary of State) is to take into account when making such a determination (whether or not he or it also takes other matters into account).

(4) In this section—

"the appropriate authority" means, in a Convention case, the Central Authority in relation to England, to Wales or to Northern Ireland (as the case may be), and in any other case—

(a) in relation to England and Wales, the Secretary of State,

(b) in relation to Northern Ireland, the Secretary of State (for the purposes of steps which he takes) or the Department of Health, Social Services and Public Safety in Northern Ireland (for the purposes of steps which it takes),

"Central Authority" is to be construed in accordance with section 2 of the Adoption (Intercountry Aspects) Act 1999 (c. 18) ("the 1999 Act") or, in relation to Northern Ireland, section 2 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11 (N.I.)) ("the 2001 Act"),

"Convention case" means a case where—

(a) the child is intended to be adopted under an adoption order which, by virtue of regulations under section 1 of the 1999 Act or section 1 of the 2001 Act (as appropriate), is made as a Convention adoption order, or

(b) the child is intended to be adopted under an adoption effected under the law of a Convention country outside the British Islands and certified in pursuance of Article 23(1) of the Convention,

and "the Convention" and "Convention country" have the meanings given by section 9(10).

Commencement Information

I12 S. 11 in force at 2.8.2007 for specified purposes by S.I. 2007/2287, **art. 1(1)(a)**

I13 S. 11 in force at 1.8.2008 in so far as not already in force by S.I. 2008/1798, **art. 2(2)(c)**

12 Imposition of extra conditions in certain cases

(1) The Secretary of State may make regulations providing—

(a) for him to specify in the restricted list, in relation to any restricted country, a step which is not otherwise provided for by or by virtue of any enactment but which, by virtue of the arrangements between the United Kingdom and that country, the appropriate authority normally takes in connection with the bringing in of a child where that country is concerned, and

(b) that, if such a step has been so specified in relation to a restricted country, one or more conditions specified in the regulations are to be met in respect of a child brought into the United Kingdom in either of the cases mentioned in section 9(2) (reading the reference there to the "other country" as being to the restricted country in question).

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(2) Those conditions are in addition to any provided for by virtue of—
  (a) section 83 of the Adoption and Children Act 2002 (c. 38) (restriction on bringing children in), or
  (b) Article 58ZA of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) (restriction on bringing children in),

or under or by virtue of any other enactment.

(3) A person who brings, or causes another to bring, a child into the United Kingdom is guilty of an offence if any condition required to be met by virtue of subsection (1)(b) is not met.

(4) Subsection (3) does not apply if the step specified in the restricted list in relation to any country had already been taken before the publication of the restricted list.

(5) A person guilty of an offence under subsection (3) is liable—
  (a) on summary conviction, to imprisonment for a term not exceeding 12 months (in England and Wales) or 6 months (in Northern Ireland), or a fine not exceeding the statutory maximum, or both,
  (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months, or a fine, or both.

(6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the reference in subsection (5)(a) to 12 months is to be read as a reference to 6 months.

This subsection does not extend to Northern Ireland.

(7) In this section—
  (a) "the appropriate authority" has the meaning given by section 11(4),
  (b) "restricted country" and "restricted list" have the same meanings as in section 9.

Commencement Information

I14 S. 12(1)(7) in force at 2.8.2007 for specified purposes by S.I. 2007/2287, **art. 1(1)(b)**
I15 S. 12(1)(7) in force at 1.8.2008 in so far as not already in force by S.I. 2008/1798, **art. 2(2)(c)**
I16 S. 12(2)-(5) in force at 1.8.2008 by S.I. 2008/1798, **art. 2(2)(c)**
I17 S. 12(6) in force at 1.8.2008 by S.I. 2008/1798, **art. 2(2)(c)**

13 Power to charge

After section 91 of the Adoption and Children Act 2002 (c. 38) insert—

"91A Power to charge

(1) This section applies to adoptions to which—
  (a) section 83 applies, or
  (b) regulations made under section 1 of the Adoption (Intercountry Aspects) Act 1999 apply.

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(2) The Secretary of State may charge a fee to adopters for services provided or to be provided by him in relation to adoptions to which this section applies.

(3) The Assembly may charge a fee to adopters for services provided or to be provided by it as the Central Authority in relation to adoptions to which this section applies by virtue of subsection (1)(b).

(4) The Secretary of State and the Assembly may determine the level of fee as he or it sees fit, and may in particular—

(a) charge a flat fee or charge different fees in different cases or descriptions of case, and

(b) in any case or description of case, waive a fee.

(5) But the Secretary of State and the Assembly must each secure that, taking one financial year with another, the income from fees under this section does not exceed the total cost to him or, as the case may be, to it of providing the services in relation to which the fees are imposed.

(6) In this section—

references to adoptions and adopters include prospective adoptions and prospective adopters,

"Central Authority" is to be construed in accordance with section 2 of the Adoption (Intercountry Aspects) Act 1999,

"financial year" means a period of twelve months ending with 31st March."

Commencement Information

I18 S. 13 in force at 2.4.2007 for specified purposes for W. by S.I. 2007/733, **art. 2**

I19 S. 13 in force at 28.10.2010 wholly in force for E. and in force for W. in so far as not already in force by S.I. 2010/2612, **art. 2**

14 Other amendments relating to adoptions from abroad

(1) In section 83 of the Adoption and Children Act 2002 (restriction on bringing children into the United Kingdom), in subsection (1)(b), for "six" substitute " twelve ".

(2) The amendment made by subsection (1) applies only in relation to a child adopted under an external adoption (see section 83(3) of the Adoption and Children Act 2002 (c. 38)) effected after subsection (1) comes into force.

(3) In Schedule 8 to the Children Act 1989 (c. 41) (privately fostered children), in paragraph 5 (as amended by paragraph 73 of Schedule 3 to the Adoption and Children Act 2002), after sub-paragraph (c) add— " or while he is a child in respect of whom a local authority have functions by virtue of regulations under section 83(6)(b) of the Adoption and Children Act 2002 (which relates to children brought into the United Kingdom for adoption), or corresponding functions by virtue of regulations under section 1 of the Adoption (Intercountry Aspects) Act 1999 (regulations to give effect to Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption). "

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

Commencement Information

I20 S. 14(1)(2) in force at 1.10.2007 by S.I. 2007/2287, **art. 1(2)(c)**

I21 S. 14(3) in force at 2.8.2007 by S.I. 2007/2287, **art. 1(1)(c)**

PART 3

MISCELLANEOUS AND FINAL

Miscellaneous provisions

15 Minor and consequential amendments and repeals

(1) Schedule 2 (minor and consequential amendments) has effect.

(2) Schedule 3 (repeals) has effect.

Commencement Information

I22 S. 15(1) in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

I23 S. 15(2) in force at 1.10.2007 for specified purposes by S.I. 2007/2287, **art. 1(2)(d)**

I24 S. 15(2) in force at 8.12.2008 in so far as not already in force by S.I. 2008/2870, **art. 2(2)(f)**

Final provisions

16 Regulations and orders

(1) Any power to make regulations conferred by this Act on the Secretary of State is exercisable by statutory instrument.

(2) The power to make and revoke an order under section 9(4) is also exercisable by statutory instrument.

(3) A statutory instrument mentioned in subsection (1) or (2) is to be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Regulations made under this Act may make different provision for different purposes.

(5) A power to make regulations under this Act (as well as being exercisable in relation to all cases to which it extends) may be exercised in relation to—

(a) those cases subject to specified exceptions, or

(b) a particular case or class of case.

Commencement Information

I25 S. 16 in force at 7.7.2008 by S.I. 2008/1798, **art. 2(1)(b)**

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

17 Short title, commencement and extent

(1) This Act may be cited as the Children and Adoption Act 2006.

(2) Except as provided in subsection (3), the preceding provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

(3) Section 13, so far as relating to adoptions and prospective adoptions in relation to which the National Assembly for Wales may charge a fee under section 91A of the Adoption and Children Act 2002 (c. 38), shall come into force on such day as the National Assembly for Wales may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

(4) Before making an order under subsection (2) the Secretary of State must consult the National Assembly for Wales.

(5) Before making an order under subsection (2) bringing sections 9 to 12 into force, the Secretary of State must consult the Department of Health, Social Services and Public Safety in Northern Ireland.

(6) Subject to subsections (7) and (8), this Act extends to England and Wales only.

(7) The amendment or repeal of an enactment has the same extent as the enactment to which it relates.

(8) The following provisions of this Act extend also to Northern Ireland—
   (a) sections 9 to 11;
   (b) section 12(1) to (5) and (7);
   (c) section 16;
   (d) this section.

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

SCHEDULES

SCHEDULE 1

Section 4

ENFORCEMENT ORDERS

Commencement Information
I26 Sch. 1 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(c)**

Before Schedule 1 to the Children Act 1989 (c. 41) insert—

"SCHEDULE A1

ENFORCEMENT ORDERS

PART 1

UNPAID WORK REQUIREMENT

General

1 Subject to the modifications in paragraphs 2 and 3, Chapter 4 of Part 12 of the Criminal Justice Act 2003 has effect in relation to an enforcement order as it has effect in relation to a community order (within the meaning of Part 12 of that Act).

References to an offender

2 Subject to paragraph 3, references in Chapter 4 of Part 12 of the Criminal Justice Act 2003 to an offender are to be treated as including references to a person subject to an enforcement order.

Specific modifications

3 (1) The power of the Secretary of State by order under section 197(3) to amend the definition of "responsible officer" and to make consequential amendments includes power to make any amendments of this Part (including further modifications of Chapter 4 of Part 12 of the Criminal Justice Act 2003) that appear to the Secretary of State to be necessary or expedient in consequence of any amendment made by virtue of section 197(3)(a) or (b).

(2) In section 198 (duties of responsible officer)—

(a) in subsection (1)—

(i) at the end of paragraph (a) insert " and ", and

(ii) omit paragraph (c) and the word "and" immediately preceding it, and

(b) after subsection (1) insert—

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

"(1A) Subsection (1B) applies where—

(a) an enforcement order is in force, and

(b) an officer of the Children and Family Court Advisory and Support Service or a Welsh family proceedings officer (as defined in section 35 of the Children Act 2004) is required under section 11M of the Children Act 1989 to report on matters relating to the order.

(1B) The officer of the Service or the Welsh family proceedings officer may request the responsible officer to report to him on such matters relating to the order as he may require for the purpose of making a report under section 11M(1)(c) or (d); and it shall be the duty of the responsible officer to comply with such a request."

(3) In section 199 (unpaid work requirement)—

(a) in subsection (2) (minimum and maximum hours of unpaid work) for paragraph (b) substitute—

"(b) not more than 200.",

(b) omit subsections (3) and (4), and

(c) in subsection (5) for the words from the beginning to "of them" substitute " Where on the same occasion and in relation to the same person the court makes more than one enforcement order imposing an unpaid work requirement ".

(4) In section 200 (obligations of person subject to unpaid work requirement), for subsection (2) substitute—

"(2) Subject to paragraphs 7 and 9 of Schedule A1 to the Children Act 1989, the work required to be performed under an unpaid work requirement imposed by an enforcement order must be performed during a period of twelve months.

(2A) But the period of twelve months is not to run while the enforcement order is suspended under section 11J(9) of the Children Act 1989."

(5) Section 217 (requirement to avoid conflict with religious beliefs, etc) is omitted.

(6) In section 218 (availability of arrangements in local area), subsection (1) (condition for imposition of unpaid work requirement) is omitted.

(7) Section 219 (provision of copies of relevant order) is omitted.

(8) The power of the Secretary of State to make rules under section 222 in relation to persons subject to relevant orders may also be exercised in relation to persons subject to enforcement orders.

(9) The power of the Secretary of State by order under section 223(1) to amend the provision mentioned in section 223(1)(a) includes power to amend this Part so as to make such modifications of Chapter 4 of Part 12 of the Criminal Justice Act 2003 as appear to the Secretary of State to be necessary or expedient in consequence of any amendment of the provision mentioned in section 223(1)(a).

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

PART 2

REVOCATION, AMENDMENT OR BREACH OF ENFORCEMENT ORDER

Power to revoke

4 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) The court may revoke the enforcement order if it appears to the court that—

(a) in all the circumstances no enforcement order should have been made,

(b) having regard to circumstances which have arisen since the enforcement order was made, it would be appropriate for the enforcement order to be revoked, or

(c) having regard to the person's satisfactory compliance with the contact order or any contact order that has effect in its place, it would be appropriate for the enforcement order to be revoked.

(3) The enforcement order may be revoked by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

(4) In deciding whether to revoke the enforcement order under sub-paragraph (2)(b), the court is to take into account—

(a) the extent to which the person subject to the enforcement order has complied with it, and

(b) the likelihood that the person will comply with the contact order or any contact order that has effect in its place in the absence of an enforcement order.

(5) In deciding whether to revoke the enforcement order under sub-paragraph (2)(c), the court is to take into account the likelihood that the person will comply with the contact order or any contact order that has effect in its place in the absence of an enforcement order.

Amendment by reason of change of residence

5 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) If the court is satisfied that the person has changed, or proposes to change, his residence from the local justice area specified in the order to another local justice area, the court may amend the order by substituting the other area for the area specified.

(3) The enforcement order may be amended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Amendment of hours specified under unpaid work requirement

6 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) If it appears to the court that, having regard to circumstances that have arisen since the enforcement order was made, it would be appropriate to do so, the court may reduce the number of hours specified in the order (but not below the minimum specified in section 199(2)(a) of the Criminal Justice Act 2003).

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(3) In amending the enforcement order under sub-paragraph (2), the court must be satisfied that the effect on the person of the enforcement order as proposed to be amended is no more than is required to secure his compliance with the contact order or any contact order that has effect in its place.

(4) The enforcement order may be amended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Amendment to extend unpaid work requirement

7 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order and the enforcement order is in force.

(2) If it appears to the court that, having regard to circumstances that have arisen since the enforcement order was made, it would be appropriate to do so, the court may, in relation to the order, extend the period of twelve months specified in section 200(2) of the Criminal Justice Act 2003 (as substituted by paragraph 3).

(3) The period may be extended by the court under sub-paragraph (2) of its own motion or on an application by the person subject to the enforcement order.

Warning and report following breach

8 (1) This paragraph applies where a court has made an enforcement order in respect of a person's failure to comply with a contact order.

(2) If the responsible officer is of the opinion that the person has failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order, the officer must give the person a warning under this paragraph unless—

(a) the person has within the previous twelve months been given a warning under this paragraph in relation to a failure to comply with the unpaid work requirement, or

(b) the responsible officer reports the failure to the appropriate person.

(3) A warning under this paragraph must—

(a) describe the circumstances of the failure,

(b) state that the failure is unacceptable, and

(c) inform the person that, if within the next twelve months he again fails to comply with the unpaid work requirement, the warning and the subsequent failure will be reported to the appropriate person.

(4) The responsible officer must, as soon as practicable after the warning has been given, record that fact.

(5) If—

(a) the responsible officer has given a warning under this paragraph to a person subject to an enforcement order, and

(b) at any time within the twelve months beginning with the date on which the warning was given, the responsible officer is of the opinion that the person has since that date failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order,

the officer must report the failure to the appropriate person.

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(6) A report under sub-paragraph (5) must include a report of the warning given to the person subject to the enforcement order.

(7) The appropriate person, in relation to an enforcement order, is the officer of the Service or the Welsh family proceedings officer who is required under section 11M to report on matters relating to the enforcement order.

(8) "Responsible officer", in relation to a person subject to an enforcement order, has the same meaning as in section 197 of the Criminal Justice Act 2003 (as modified by paragraph 2).

Breach of an enforcement order

9 (1) This paragraph applies where a court has made an enforcement order ("the first order") in respect of a person's failure to comply with a contact order.

(2) If the court is satisfied beyond reasonable doubt that the person has failed to comply with the unpaid work requirement imposed by the first order, the court may—

(a) amend the first order so as to make the requirement more onerous, or

(b) make an enforcement order ("the second order") in relation to the person and (if the first order is still in force) provide for the second order to have effect either in addition to or in substitution for the first order.

(3) But the court may not exercise its powers under sub-paragraph (2) if it is satisfied that the person had a reasonable excuse for failing to comply with the unpaid work requirement imposed by the first order.

(4) The burden of proof as to the matter mentioned in sub-paragraph (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.

(5) The court may exercise its powers under sub-paragraph (2) in relation to the first order only on the application of a person who would be able to apply under section 11J for an enforcement order if the failure to comply with the first order were a failure to comply with the contact order to which the first order relates.

(6) Where the person proposing to apply to the court is the child with respect to whom the contact order was made, subsections (6) and (7) of section 11J have effect in relation to the application as they have effect in relation to an application for an enforcement order.

(7) An application to the court to exercise its powers under sub-paragraph (2) may only be made while the first order is in force.

(8) The court may not exercise its powers under sub-paragraph (2) in respect of a failure by the person to comply with the unpaid work requirement imposed by the first order unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of, a notice under section 11N relating to the first order.

(9) In dealing with the person under sub-paragraph (2)(a), the court may—

(a) increase the number of hours specified in the first order (but not above the maximum specified in section 199(2)(b) of the Criminal Justice Act 2003, as substituted by paragraph 3);

(b) in relation to the order, extend the period of twelve months specified in section 200(2) of the Criminal Justice Act 2003 (as substituted by paragraph 3).

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(10) In exercising its powers under sub-paragraph (2), the court must be satisfied that, taking into account the extent to which the person has complied with the unpaid work requirement imposed by the first order, the effect on the person of the proposed exercise of those powers—

(a) is no more than is required to secure his compliance with the contact order or any contact order that has effect in its place, and

(b) is no more than is proportionate to the seriousness of his failures to comply with the contact order and the first order.

(11) Where the court exercises its powers under sub-paragraph (2) by making an enforcement order in relation to a person who has failed to comply with another enforcement order—

(a) sections 11K(4), 11L(2) to (7), 11M and 11N have effect as regards the making of the order in relation to the person as they have effect as regards the making of an enforcement order in relation to a person who has failed to comply with a contact order;

(b) this Part of this Schedule has effect in relation to the order so made as if it were an enforcement order made in respect of the failure for which the other order was made.

(12) Sub-paragraph (2) is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to enforcement orders.

Provision relating to amendment of enforcement orders

10 Sections 11L(2) to (7) and 11M have effect in relation to the making of an order under paragraph 6(2), 7(2) or 9(2)(a) amending an enforcement order as they have effect in relation to the making of an enforcement order; and references in sections 11L(2) to (7) and 11M to an enforcement order are to be read accordingly."

SCHEDULE 2

Section 15

MINOR AND CONSEQUENTIAL AMENDMENTS

Domicile and Matrimonial Proceedings Act 1973 (c. 45)

1 (1) In Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (c. 45) (staying of matrimonial proceedings: England and Wales), paragraph 11 (effect of staying matrimonial proceedings on court's power to make certain orders) is amended as follows.

(2) After sub-paragraph (4) insert—

"(4A) Sub-paragraph (4B) applies where—

(a) proceedings are stayed as described in sub-paragraph (1) or (4), and

(b) at the time when the stay is imposed, a contact order (within the meaning of the Children Act 1989) made in connection with the stayed proceedings is in force.

(4B) While the stay applies to the proceedings, the court may not—

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

(a) make an enforcement order (within the meaning of the Children Act 1989) in relation to the contact order, or

(b) as regards an enforcement order already made in relation to the contact order, exercise its powers under paragraph 9(2) of Schedule A1 to the Children Act 1989 in relation to the enforcement order."

(3) In sub-paragraph (5) (certain powers of court not affected) at the beginning insert " Except as provided in sub-paragraph (4B), ".

Commencement Information
I27 Sch. 2 para. 1 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

Family Law Act 1986 (c. 55)

2 The Family Law Act 1986 (c. 55) is amended as follows.

Commencement Information
I28 Sch. 2 para. 2 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

3 (1) Section 5 (power of court to refuse application or stay proceedings) is amended as follows.

(2) After subsection (2) (stay where more appropriate for matters to be determined in proceedings outside England and Wales) insert—

"(2A) If the proceedings on the application are proceedings in which a contact activity direction has been made under section 11A of the Children Act 1989 (or an enforcement order has been made under section 11J of that Act), the court may when granting a stay under or by virtue of subsection (2) also suspend the contact activity direction (or the enforcement order)."

(3) After subsection (3A) (removal of stay granted under Article 15) insert—

"(3B) If the stay removed under subsection (3) or (3A) is a stay in relation to which the court suspended a contact activity direction made under section 11A of the Children Act 1989 (or an enforcement order made under section 11J of that Act), the court may when removing the stay under subsection (3) or (3A) also bring the suspension to an end."

Commencement Information
I29 Sch. 2 para. 3 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

4 In section 29 (enforcement), in subsection (1) after "enforcing the order" insert " (including, where an order with respect to contact is registered in England and Wales, the powers under section 11O of the Children Act 1989) ".

Commencement Information
I30 Sch. 2 para. 4 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

5 In section 30 (staying or sisting of enforcement proceedings), after subsection (1) insert—

"(1A) No application may be made under subsection (1) for proceedings to be stayed or sisted if the proceedings are proceedings on an application for an order under section 11O(2) of the Children Act 1989."

Commencement Information
I31 Sch. 2 para. 5 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

6 In section 31 (dismissal of enforcement proceedings), after subsection (1) insert—

"(1A) No application may be made under subsection (1) for proceedings to be dismissed if the proceedings are proceedings on an application for an order under section 11O(2) of the Children Act 1989."

Commencement Information
I32 Sch. 2 para. 6 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

Children Act 1989 (c. 41)

7 The Children Act 1989 (c. 41) is amended as follows.

Commencement Information
I33 Sch. 2 para. 7 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

8 In section 14B (making of special guardianship orders), in subsection (1)—

(a) omit the "and" at the end of paragraph (a), and

(b) after paragraph (b) insert—

"(c) where a contact order made with respect to the child is not discharged, any enforcement order relating to that contact order should be revoked, and

(d) where a contact activity direction has been made as regards contact with the child and is in force, that contact activity direction should be discharged."

Commencement Information
I34 Sch. 2 para. 8 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

9 In section 91 (effect and duration of orders etc) after subsection (2) insert—

"(2A) Where a contact activity direction has been made as regards contact with a child, the making of a care order with respect to the child discharges the direction."

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Commencement Information
I35 Sch. 2 para. 9 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

10 In section 104 (regulations and orders)—

(a) in subsection (1) for "or the Secretary of State" substitute " , the Secretary of State or the National Assembly for Wales ";

(b) after subsection (2) insert—

"(2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales."

Commencement Information
I36 Sch. 2 para. 10 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

11 In section 105 (interpretation), in subsection (1) at the appropriate place insert—

""contact activity condition" has the meaning given by section 11C;";

""contact activity direction" has the meaning given by section 11A;";

""enforcement order" has the meaning given by section 11J;".

Commencement Information
I37 Sch. 2 para. 11 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

Family Law Act 1996 (c. 27)

12 (1) Schedule 3 to the Family Law Act 1996 (c. 27) (stay of proceedings: amendments of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (c. 45)) is amended as follows.

(2) In paragraph 9 (amendments of paragraph 11 of Schedule 1) after sub-paragraph (6) insert—

"(6A) In sub-paragraph (4A)(a) for "sub-paragraph (1) or (4)" substitute " sub-paragraph (1) "."

Commencement Information
I38 Sch. 2 para. 12 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

Adoption and Children Act 2002 (c. 38)

13 The Adoption and Children Act 2002 (c. 38) is amended as follows.

Commencement Information
I39 Sch. 2 para. 13 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

Status: *Point in time view as at 28/10/2010.*
Changes to legislation: *Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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)*

14 (1) Section 26 (effect on contact of placing a child for adoption) is amended as follows.

(2) In subsection (1), after "have effect" insert " and any contact activity direction relating to contact with the child is discharged ".

(3) In subsection (6), after "In this section," insert " "contact activity direction" has the meaning given by section 11A of the 1989 Act and ".

Commencement Information

I40 Sch. 2 para. 14 in force at 8.12.2008 by S.I. 2008/2870, **art. 2(2)(e)**

SCHEDULE 3

Section 15

REPEALS

Commencement Information

I41 Sch. 3 in force at 1.10.2007 for specified purposes by S.I. 2007/2287, **art. 1(2)(d)**

I42 Sch. 3 in force at 8.12.2008 in so far as not already in force by S.I. 2008/2870, **art. 2(2)(f)**

Short title and chapter	*Extent of repeal*
Children Act 1989 (c. 41)	In section 14B(1), the word "and" at the end of paragraph (a). Section 16(3)(a).

Status:
Point in time view as at 28/10/2010.

Changes to legislation:
Children and Adoption Act 2006 is up to date with all changes known to be in force on or before 31 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.