



Children and Adoption Act 2006

2006 CHAPTER 20

PART 1

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

Contact with children

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—

Changes to legislation: There are currently no known outstanding effects for the Children and Adoption Act 2006, Section 5. (See end of Document for details)

- (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) 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)).”

Changes to legislation: There are currently no known outstanding effects for the Children and Adoption Act 2006, Section 5. (See end of Document for details)

Annotations:

Commencement Information

- II** S. 5 in force at 8.12.2008 by
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Changes to legislation:

There are currently no known outstanding effects for the Children and Adoption Act 2006, Section 5.