

## SCHEDULES

### SCHEDULE 2

#### CHILD ARRANGEMENTS ORDERS: AMENDMENTS

#### PART 2

##### AMENDMENTS IN OTHER LEGISLATION

##### *Marriage Act 1949 (c. 76)*

- 42 (1) Section 3 of the Marriage Act 1949 (marriage of persons under 18) is amended as follows.
- (2) In subsection (1A) (persons whose consent is required), in each of paragraphs (d) and (h), for “residence order” substitute “child arrangements order to which subsection (1C) applies”.
- (3) In subsection (1B) (interpretation) for ““residence order”,” substitute ““child arrangements order”,”.
- (4) After that subsection insert—
- “(1C) A child arrangements order is one to which this subsection applies if the order regulates arrangements that consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

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

- 43 (1) Section 70 of the Children and Young Persons Act 1969 (interpretation) is amended as follows.
- (2) In subsection (1A) (“father” includes father not married at child’s birth to child’s mother if there is residence order in father’s favour) for paragraph (b) substitute—
- “(b) whose father is named in a child arrangements order as a person with whom the child or young person is to live,”.
- (3) In subsection (1B) for ““residence” substitute ““child arrangements”.

##### *Local Authority Social Services Act 1970 (c. 42)*

- 44 In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions), in the second column of the entry for the Children Act 1989, for “residence” substitute “child arrangements”.

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*Domicile and Matrimonial Proceedings Act 1973 (c. 45)*

- 45     (1) Paragraph 11 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (restrictions on court’s powers while matrimonial proceedings are stayed) is amended as follows.
- (2) In sub-paragraph (4A)(b) (contact order in force when proceedings stayed) for “contact” substitute “child arrangements”.
- (3) In sub-paragraph (4B) (enforcement of the contact order while the proceedings are stayed) for “contact”, in both places, substitute “child arrangements”.

*Mental Health Act 1983 (c. 20)*

- 46     In section 28(1) of the Mental Health Act 1983 (“nearest relative” of child in respect of whom residence order is in force etc)—
- (a) in paragraph (b)—
- (i) for “residence” substitute “person is named in a child arrangements”, and
- (ii) for “is in force with respect to such a person” substitute “as a person with whom a person who has not attained the age of eighteen years is to live”, and
- (b) in the words after paragraph (b), for “named in the residence order” substitute “so named (or the persons so named, where there is more than one)”.

*Child Abduction Act 1984 (c. 37)*

- 47     (1) Section 1 of the Child Abduction Act 1984 (offence of abduction of child by connected person without appropriate consent) is amended as follows.
- (2) In subsection (2)(d) (person in whose favour residence order is in force is connected person) for the words after “person” substitute “named in a child arrangements order as a person with whom the child is to live; or”.
- (3) In subsection (3)(a) (“appropriate consent” includes consent of every person listed) for sub-paragraph (iv) (person in whose favour residence order is in force) substitute—
- “(iv) any person named in a child arrangements order as a person with whom the child is to live;”.
- (4) In subsection (4)(a) (exception for short foreign trip organised by person in whose favour residence order made) for “in whose favour there is a residence order in force with respect to the child,” substitute “named in a child arrangements order as a person with whom the child is to live”.
- (5) For subsection (5A)(a)(i) (exception where consent unreasonably refused does not apply where there is residence order in favour of person refusing consent) substitute—
- “(i) named in a child arrangements order as a person with whom the child is to live;”.
- (6) In subsection (7)(a) (interpretation) for ““residence” substitute ““child arrangements”.

*Child Abduction and Custody Act 1985 (c. 60)*

- 48 For paragraph 1(b) of Schedule 3 to the Child Abduction and Custody Act 1985 (orders mentioned in section 27(1) include a residence order) substitute—
- “(b) a child arrangements order (as defined by section 8 of the Act of 1989) if the arrangements regulated by the order consist of, or include, arrangements relating to either or both of the following—
- (i) with whom a child is to live, or
- (ii) when a child is to live with any person;”.

*Family Law Act 1986 (c. 55)*

- 49 The Family Law Act 1986 is amended as follows.
- 50 (1) Section 5 (which contains references to contact activity directions) is amended as follows.
- (2) In subsection (2A)—
- (a) for “a contact” substitute “an”, and
- (b) for “the contact” substitute “the”.
- (3) In subsection (3B) for “a contact” substitute “an”.
- 51 (1) Section 6 (which includes provision for a family assistance order to cease to have effect where a related residence order is superseded by an order made in Scotland or Northern Ireland) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) Subsection (7) below applies where a Part I order which is a child arrangements order (within the meaning of section 8(1) of the Children Act 1989) ceases by virtue of subsection (1) above to name a person as someone with whom a child is to live.”
- (3) In subsection (6) (circumstances in which subsection (7) applies)—
- (a) after “Subsection (7) below” insert “also”, and
- (b) omit paragraph (a) (residence order ceasing to have effect by virtue of subsection (1)).

*Child Support Act 1991 (c. 48)*

- 52 For section 3(4)(c) of the Child Support Act 1991 (persons with residence orders in their favour may not be prescribed as persons who are not “persons with care”) substitute—
- “(c) persons named, in a child arrangements order under section 8 of the Children Act 1989, as persons with whom a child is to live;”.

*Armed Forces Act 1991 (c. 62)*

- 53 The Armed Forces Act 1991 is amended as follows.
- 54 In section 17(4) (persons who may apply for assessment order) after paragraph (d) insert—

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- “(da) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.
- 55 In section 18(7) (persons who may apply to vary or discharge an assessment order) after paragraph (d) insert—
- “(da) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.
- 56 In section 20(8) (persons who are to be allowed reasonable contact with a child subject to a protection order) after paragraph (c) insert—
- “(ca) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.
- 57 In section 22A(7) (persons who are to be allowed reasonable contact with a child in service police protection) after paragraph (c) insert—
- “(ca) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.
- 58 (1) Section 23(1) (interpretation of Part 3) is amended as follows.
- (2) After the definition of “child” insert—
- ““child arrangements order” has the meaning given by section 8(1) of the Children Act 1989;”.
- (3) In the definition of “contact order”—
- (a) omit “section 8(1) of the Children Act 1989 or”, and
- (b) omit “as the case may be”.

#### *Adoption and Children Act 2002 (c. 38)*

- 59 The Adoption and Children Act 2002 is amended as follows.
- 60 (1) Section 26 (placement of children by adoption agency for adoption: contact) is amended as follows.
- (2) In subsection (1) (provision for contact under the 1989 Act ceases to have effect and any contact activity direction is discharged) for the words from “any provision for contact” to the end substitute “—
- (a) any contact provision in a child arrangements order under section 8 of the 1989 Act ceases to have effect,
- (b) any order under section 34 of that Act (parental etc contact with children in care) ceases to have effect, and
- (c) any activity direction made in proceedings for the making, variation or discharge of a child arrangements order with respect to the child, or made in other proceedings that relate to such an order, is discharged.”
- (3) In subsection (2)(a) (no application may be made for provision for contact under the 1989 Act) for “any provision for contact under that Act, but” substitute “—
- (i) a child arrangements order under section 8 of the 1989 Act containing contact provision, or

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- (ii) an order under section 34 of that Act, but”.
- (4) In subsection (3)(c) (application for contact may be made by person in whose favour provision for contact was made)—
- (a) omit “for contact under the 1989 Act”, and
  - (b) for “(1)” substitute “(1)(a) or an order which ceased to have effect by virtue of subsection (1)(b)”.
- (5) In subsection (3)(d) (application for contact may be made by person in whose favour residence order was made)—
- (a) for “residence” substitute “child arrangements”, and
  - (b) for “the person in whose favour the order was made” substitute “any person named in the order as a person with whom the child was to live”.
- (6) In subsection (5) (application for contact order that is to be heard together with application for adoption order) for “contact order under section 8 of the 1989 Act” substitute “child arrangements order under section 8 of the 1989 Act containing only contact provision”.
- (7) For subsection (6) (interpretation) substitute—
- “(5A) In this section “contact provision” means provision which regulates arrangements relating to—
- (a) with whom a child is to spend time or otherwise have contact, or
  - (b) when a child is to spend time or otherwise have contact with any person;
- but in paragraphs (a) and (b) a reference to spending time or otherwise having contact with a person is to doing that otherwise than as a result of living with the person.
- (6) In this section “activity direction” has the meaning given by section 11A of the 1989 Act.”
- 61 (1) Section 28 (further consequences of placement) is amended as follows.
- (2) In subsection (1)(a) (restrictions on applying for residence order) for “residence order” substitute “child arrangements order regulating the child’s living arrangements”.
- (3) After subsection (4) insert—
- “(5) For the purposes of subsection (1)(a), a child arrangements order regulates a child’s living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
  - (b) when the child is to live with any person.”
- 62 (1) Section 29 (further consequences of placement orders) is amended as follows.
- (2) In subsection (3)(a) (residence order etc may not be made if placement order is in force) omit “, residence order”.
- (3) In subsection (4) (residence orders to which subsection (3) does not apply)—
- (a) for “Subsection (3)(a) does not apply in respect of a residence order if—” substitute “Where a placement order is in force, a child arrangements order may be made with respect to the child’s living arrangements only if—”, and

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(b) in paragraph (b), for “residence” substitute “child arrangements”.

(4) After subsection (4) insert—

“(4A) For the purposes of subsection (4), a child arrangements order is one made with respect to a child’s living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

63 (1) Section 32 (recovery of child from placement) is amended as follows.

(2) In subsection (5) (effect of undecided application for residence order etc on duty to return child) for paragraphs (a) and (b) substitute—

“(a) before the notice was given, an application—

- (i) for an adoption order (including a Scottish or Northern Irish adoption order),
- (ii) for a special guardianship order,
- (iii) for a child arrangements order to which subsection (6) applies, or
- (iv) for permission to apply for an order within subparagraph (ii) or (iii),

was made in respect of the child, and

- (b) the application (and, in a case where permission is given on an application to apply for an order within paragraph (a)(ii) or (iii), the application for the order) has not been disposed of.”

(3) After that subsection insert—

“(6) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom a child is to live, and
- (b) when the child is to live with any person.”

64 (1) Section 35 (return of placed child in certain cases) is amended as follows.

(2) In subsection (5) (effect of undecided application for residence order etc on duty to return child) for paragraphs (b) and (c) substitute—

“(b) before the notice was given, an application—

- (i) for an adoption order (including a Scottish or Northern Irish adoption order),
- (ii) for a special guardianship order,
- (iii) for a child arrangements order to which subsection (5A) applies, or
- (iv) for permission to apply for an order within subparagraph (ii) or (iii),

was made in respect of the child, and

- (c) the application (and, in a case where permission is given on an application to apply for an order within paragraph (b)(ii) or (iii), the application for the order) has not been disposed of.”

(3) After that subsection insert—

“(5A) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom a child is to live, and
- (b) when a child is to live with any person.”

65 (1) Schedule 6 (glossary) is amended as follows.

(2) At the appropriate place insert—

“child arrangements order | section 8(1) of the 1989 Act”

(3) Omit the entry for “residence order”.

#### *Civil Partnership Act 2004 (c. 33)*

66 (1) Schedule 2 to the Civil Partnership Act 2004 (civil partnerships of persons under 18) is amended as follows.

(2) In paragraph 1 (persons whose consent is required), in each of items 4 and 8 in the first column of the table, for “residence order” substitute “child arrangements order to which paragraph 2A applies”.

(3) In paragraph 2 (interpretation of paragraph 1) for ““residence order”,” substitute ““child arrangements order”,”.

(4) In Part 1 (appropriate persons) after paragraph 2 insert—

“2A A child arrangements order (as defined by section 8 of the Children Act 1989) is one to which this paragraph applies if the order regulates arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

#### *Income Tax (Trading and Other Income) Act 2005 (c. 5)*

67 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.

68 (1) Section 744 (payments to adopters, etc: England and Wales) is amended as follows.

(2) In subsection (1)(g) (no income tax on payments under section 17 of the Children Act 1989 made to a person as a result of a residence order being in force in the person’s favour) for “in whose favour a residence order with respect to a child is in force” substitute “named in a child arrangements order as a person with whom a child is to live”.

(3) In subsection (1)(h) (no income tax on payments under paragraph 15 of Schedule 1 to the 1989 Act made to person with whom child is living, or is to live, as a result of a residence order) for “in whose favour residence order is in force” substitute “with whom child is living, or is to live, as a result of a child arrangements order”.

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- (4) In subsection (1)(i) (no income tax on other payments under maintenance agreements or under orders under Schedule 1 to the 1989 Act) for “in whose favour a residence order with respect to the child is in force” substitute “named in a child arrangements order as a person with whom the child is to live”.
- (5) For subsection (2)(c) (payment not exempt from tax if made to a person in whose favour a residence order is in force where that order is also in favour of an excluded relative) substitute—
  - “(c) it is made to a person (“P”) named in a child arrangements order as a person with whom the child is to live and an excluded relative who lives in the same household as P is also named in that order as a person with whom the child is to live.”
- (6) In subsection (3) (interpretation) for ““residence” substitute ““child arrangements”.
- 69 In section 806(5) (persons who are not foster carers for purposes of Chapter 2 of Part 7) after paragraph (b) insert—
  - “(ba) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the care order was made, a person named in the child arrangements order as a person with whom the child was to live,
  - (bb) (in Scotland) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the child was placed in care, a person named in the child arrangements order as a person with whom the child was to live, spend time or otherwise have contact,”.

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

- 70 In paragraph 13(1)(c) of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services: orders mentioned in section 8(1) of the Children Act 1989) for “residence, contact” substitute “child arrangements orders”.