



# Family Law Act 1986

## 1986 CHAPTER 55

### PART I

#### CHILD CUSTODY

### CHAPTER III

#### JURISDICTION OF COURTS IN SCOTLAND

#### 10 Presence of child.

Subject to section 11 of this Act, an application for a [<sup>F1</sup>Part I order] otherwise than in matrimonial [<sup>F2</sup>or civil partnership] proceedings may be entertained by—

- (a) the Court of Session if, on the date of the application, the child concerned—
  - (i) is present in Scotland; and
  - (ii) is not habitually resident in any part of the United Kingdom;
- (b) the sheriff if, on the date of the application,—
  - (i) the child is present in Scotland;
  - (ii) the child is not habitually resident in any part of the United Kingdom; and
  - (iii) either the pursuer or the defender in the application is habitually resident in the sheriffdom.

#### Textual Amendments

**F1** Words in s. 10 substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch. 13 para. 62\(2\)\(a\)](#) (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

**F2** Words in s. 10 inserted (5.12.2005) by [The Civil Partnership Act 2004 \(Consequential Amendments\) \(Scotland\) Order 2005 \(S.S.I. 2005/623\)](#), arts. 1, [13](#)

**Status:**

Point in time view as at 28/09/2009.

**Changes to legislation:**

Family Law Act 1986, Section 10 is up to date with all changes known to be in force on or before 01 June 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.