



# Family Law Act 1986

## 1986 CHAPTER 55

### PART I

#### CHILD CUSTODY

#### CHAPTER IV

##### JURISDICTION OF COURTS IN NORTHERN IRELAND

#### **21 Jurisdiction in divorce proceedings, etc.**

- (1) The enactments relating to the jurisdiction of courts in Northern Ireland to make orders under section 45(1) of the Matrimonial Causes (Northern Ireland) Order 1978 shall have effect subject to the modifications provided for by this section.
- (2) In section 45(1)(b) of that Order (which enables orders as to custody and education to be made immediately, or within a reasonable period, after the dismissal of proceedings for divorce, etc.) for the words “within a reasonable period” there shall be substituted the words “(if an application for the order is made on or before the dismissal)”.
- (3) A court shall not have jurisdiction to make a custody order under section 45(1)(a) of that Order after the grant of a decree of judicial separation if on the relevant date, proceedings for divorce or nullity in respect of the marriage concerned are continuing in England and Wales or Scotland.
- (4) Subsection (3) above shall not apply if the court in which the other proceedings there referred to are continuing has made—
  - (a) an order under section 4(5) or 13(6) of this Act (not being an order made by virtue of section 13(6)(a)(i)), or
  - (b) an order made under section 5(2) or 14(2) of this Act which is recorded as made for the purpose of enabling proceedings with respect to the custody of the child concerned to be taken in Northern Ireland,and that order is in force.

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*Status: This is the original version (as it was originally enacted).*

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(5) Where a court—

- (a) has jurisdiction to make a custody order under section 45(1) of the Matrimonial Causes (Northern Ireland) Order 1978 in or in connection with proceedings for divorce, nullity of marriage or judicial separation, but
- (b) considers that it would be more appropriate for matters relating to the custody of the child to be determined outside Northern Ireland,

the court may by order direct that, while the order under this subsection is in force, no custody order under section 45(1) with respect to the child shall be made by any court in or in connection with those proceedings.

(6) In this section “the relevant date” means—

- (a) where an application is made for a custody order under section 45(1)(a), the date of the application (or first application, if two or more are determined together), and
- (b) where no such application is made, the date of the order.