



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

38 Automatic restriction on removal of wards of court.

- (1) The rule of law which (without any order of the court) restricts the removal of a ward of court from the jurisdiction of the court shall, in a case to which this section applies, have effect subject to the modifications in subsection (3) below.
- (2) This section applies in relation to a ward of court if—
 - (a) proceedings for divorce, nullity or judicial separation in respect of the marriage of his parents are continuing in a court in another part of the United Kingdom (that is to say, in a part of the United Kingdom outside the jurisdiction of the court of which he is a ward), or
 - [^{F1}(aa) proceedings for dissolution or annulment or legal separation in respect of the civil partnership of his parents are continuing in a court in another part of the United Kingdom (that is to say, in a part of the United Kingdom outside the jurisdiction of the court of which he is a ward), or]
 - (b) he is habitually resident in another part of the United Kingdom, except where that other part is Scotland and he has attained the age of sixteen.
- (3) Where this section applies, the rule referred to in subsection (1) above shall not prevent—
 - (a) the removal of the ward of court, without the consent of any court, to the other part of the United Kingdom mentioned in subsection (2) above, or

Changes to legislation: Family Law Act 1986, Section 38 is up to date with all changes known to be in force on or before 29 March 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) View outstanding changes

- (b) his removal to any other place with the consent of either the appropriate court in that other part of the United Kingdom or the court mentioned in subsection [F2(2)(a) or (aa) above] .

Textual Amendments

- F1** S. 38(2)(aa) inserted (5.12.2005) by [The Civil Partnership \(Family Proceedings and Housing Consequential Amendments\) Order 2005 \(S.I. 2005/3336\)](#), arts. 1, **18(1)** (with art. 2(4))
- F2** Words in s. 38(3)(b) substituted (5.12.2005) by [The Civil Partnership \(Family Proceedings and Housing Consequential Amendments\) Order 2005 \(S.I. 2005/3336\)](#), arts. 1, **18(2)** (with art. 2(4))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1)(ca)-(cc) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 7](#)
- s. 2A(1)(1A) substituted for s. 2(1) by [1996 c. 27 Sch. 8 para. 37\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))
- s. 19(1A)-(1C) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 8](#)
- s. 29A inserted by [2020 asp 16 s. 29\(2\)](#)
- s. 38(4) inserted by [1996 c. 27 Sch. 8 para. 37\(9\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))