



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

41 Habitual residence after removal without consent, etc.

(1) Where a child who—

- (a) has not attained the age of sixteen, and
- (b) is habitually resident in a part of the United Kingdom,

becomes habitually resident outside that part of the United Kingdom in consequence of circumstances of the kind specified in subsection (2) below, he shall be treated for the purposes of this Part as continuing to be habitually resident in that part of the United Kingdom for the period of one year beginning with the date on which those circumstances arise.

(2) The circumstances referred to in subsection (1) above exist where the child is removed from or retained outside, or himself leaves or remains outside, the part of the United Kingdom in which he was habitually resident before his change of residence—

- (a) without the agreement of the person or all the persons having, under the law of that part of the United Kingdom, the right to determine where he is to reside, or
- (b) in contravention of an order made by a court in any part of the United Kingdom.

(3) A child shall cease to be treated by virtue of subsection (1) above as habitually resident in a part of the United Kingdom if, during the period there mentioned—

- (a) he attains the age of sixteen, or

Changes to legislation: Family Law Act 1986, Section 41 is up to date with all changes known to be in force on or before 15 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) he becomes habitually resident outside that part of the United Kingdom with the agreement of the person or persons mentioned in subsection (2)(a) above and not in contravention of an order made by a court in any part of the United Kingdom.

Changes to legislation:

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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 I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))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))