



Children Act 1989

1989 CHAPTER 41

PART II

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

General

8 Residence, contact and other orders with respect to children.

(1) In this Act —

“a contact order” means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;

“a prohibited steps order” means an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court;

“a residence order” means an order settling the arrangements to be made as to the person with whom a child is to live; and

“a specific issue order” means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) In this Act “a section 8 order” means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.

(3) For the purposes of this Act “family proceedings” means any proceedings—

(a) under the inherent jurisdiction of the High Court in relation to children; and

(b) under the enactments mentioned in subsection (4),

but does not include proceedings on an application for leave under section 100(3).

(4) The enactments are—

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- (a) Parts I, II and IV of this Act;
- (b) the ^{M1}Matrimonial Causes Act 1973;
- [^{F1}(ba) Schedule 5 to the Civil Partnership Act 2004;]
- [^{F2}(c) the ^{M2}Domestic Violence and Matrimonial Proceedings Act 1976;
- (d) the Adoption and Children Act 2002;]
- (e) the ^{M3}Domestic Proceedings and Magistrates' Courts Act 1978;
- [^{F3}(ea) Schedule 6 to the Civil Partnership Act 2004;]
- [^{F2}(f) sections 1 and 9 of the ^{M4}Matrimonial Homes Act 1983;]
- (g) Part III of the ^{M5}Matrimonial and Family Proceedings Act 1984.
- [^{F4}(h) the Family Law Act 1996]
- [^{F5}(i) sections 11 and 12 of the Crime and Disorder Act 1998.]

Textual Amendments

- F1** S. 8(4)(ba) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 26(1), **Sch. 27 para. 129(2)**; S.I. 2005/3175, **art. 2(2)**
- F2** S. 8(4)(c) and (f) repealed (1.10.1997) by 1996 c. 27, ss. 66(1)(3), **Sch. 8 Pt. III para. 60(1), Sch. 10** (with Sch. 9 para. 5); S.I. 1997/1892, **art. 3(1)(b)**
- F3** S. 8(4)(ea) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 26(1), **Sch. 27 para. 129(3)**; S.I. 2005/3175, **art. 2(2)**
- F4** S. 8(4)(h) inserted (1.10.1997) by 1996 c. 27, ss. 66(1), **Sch. 8 Pt. III para. 60(1)**; S.I. 1997/1892, **art. 3(a)**
- F5** S. 8(4)(i) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 68**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)** (subject to arts. 5-8)

Commencement Information

- I1** S. 8 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

- M1** 1973 c. 18.
- M2** 1976 c. 50.
- M3** 1978 c. 22.
- M4** 1983 c. 19.
- M5** 1984 c. 42.

9 Restrictions on making section 8 orders.

- (1) No court shall make any section 8 order, other than a residence order, with respect to a child who is in the care of a local authority.
- (2) No application may be made by a local authority for a residence order or contact order and no court shall make such an order in favour of a local authority.
- (3) A person who is, or was at any time within the last six months, a local authority foster parent of a child may not apply for leave to apply for a section 8 order with respect to the child unless—
 - (a) he has the consent of the authority;
 - (b) he is a relative of the child; or
 - (c) the child has lived with him for at least [^{F6}one year] preceding the application.

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- (4) ^{F7}
- (5) No court shall exercise its powers to make a specific issue order or prohibited steps order—
- (a) with a view to achieving a result which could be achieved by making a residence or contact order; or
 - (b) in any way which is denied to the High Court (by section 100(2)) in the exercise of its inherent jurisdiction with respect to children.
- (6) [^{F8}Subject to section 12(5)] no court shall make any section 8 order which is to have effect for a period which will end after the child has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.
- (7) No court shall make any section 8 order, other than one varying or discharging such an order, with respect to a child who has reached the age of sixteen unless it is satisfied that the circumstances of the case are exceptional.

Textual Amendments

- F6** Words in s. 9(3)(c) substituted (30.12.2005) by 2002 c. 38, ss. 113(a), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**
- F7** S. 9(4) repealed (30.12.2005) by 2002 c. 38, ss. 113(b), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**; S.I. 2005/2897, **art. 2(b)**
- F8** Words in s. 9(6) inserted (30.12.2005) by 2002 c. 38, ss. 114(2), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(k)**

Commencement Information

- I2** S. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

10 Power of court to make section 8 orders.

- (1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 8 order with respect to the child if—
- (a) an application for the order has been made by a person who—
 - (i) is entitled to apply for a section 8 order with respect to the child; or
 - (ii) has obtained the leave of the court to make the application; or
 - (b) the court considers that the order should be made even though no such application has been made.
- (2) The court may also make a section 8 order with respect to any child on the application of a person who—
- (a) is entitled to apply for a section 8 order with respect to the child; or
 - (b) has obtained the leave of the court to make the application.
- (3) This section is subject to the restrictions imposed by section 9.
- (4) The following persons are entitled to apply to the court for any section 8 order with respect to a child—
- (a) any parent [^{F9}, guardian or special guardian] of the child;
 - [^{F10}(aa) any person who by virtue of section 4A has parental responsibility for the child;]

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- (b) any person in whose favour a residence order is in force with respect to the child.
- (5) The following persons are entitled to apply for a residence or contact order with respect to a child—
- (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
 - [^{F11}(aa) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;]
 - (b) any person with whom the child has lived for a period of at least three years;
 - (c) any person who—
 - (i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;
 - (ii) in any case where the child is in the care of a local authority, has the consent of that authority; or
 - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.
- [^{F12}(5A) A local authority foster parent is entitled to apply for a residence order with respect to a child if the child has lived with him for a period of at least one year immediately preceding the application.]
- (6) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 8 order shall be entitled to do so if—
- (a) the order was made on his application; or
 - (b) in the case of a contact order, he is named in the order.
- (7) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 8 order as may be prescribed in relation to that category of person.
- [^{F13}(7A) If a special guardianship order is in force with respect to a child, an application for a residence order may only be made with respect to him, if apart from this subsection the leave of the court is not required, with such leave.]
- (8) Where the person applying for leave to make an application for a section 8 order is the child concerned, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application for the section 8 order.
- (9) Where the person applying for leave to make an application for a section 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to—
- (a) the nature of the proposed application for the section 8 order;
 - (b) the applicant's connection with the child;
 - (c) any risk there might be of that proposed application disrupting the child's life to such an extent that he would be harmed by it; and
 - (d) where the child is being looked after by a local authority—
 - (i) the authority's plans for the child's future; and
 - (ii) the wishes and feelings of the child's parents.

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- (10) The period of three years mentioned in subsection (5)(b) need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application.

Textual Amendments

- F9** Words in s. 10(4)(a) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F10** S. 10(4)(aa) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F11** S. 10(5)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 77; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F12** S. 10(5A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F13** S. 10(7A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(d) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

Commencement Information

- I3** S. 10 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

11 General principles and supplementary provisions.

- (1) In proceedings in which any question of making a section 8 order, or any other question with respect to such an order, arises, the court shall (in the light of any rules made by virtue of subsection (2))—
- (a) draw up a timetable with a view to determining the question without delay; and
 - (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.
- (2) Rules of court may—
- (a) specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and
 - (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.
- (3) Where a court has power to make a section 8 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.
- (4) Where a residence order is made in favour of two or more persons who do not themselves all live together, the order may specify the periods during which the child is to live in the different households concerned.
- (5) Where—
- (a) a residence order has been made with respect to a child; and
 - (b) as a result of the order the child lives, or is to live, with one of two parents who each have parental responsibility for him,
- the residence order shall cease to have effect if the parents live together for a continuous period of more than six months.

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- (6) A contact order which requires the parent with whom a child lives to allow the child to visit, or otherwise have contact with, his other parent shall cease to have effect if the parents live together for a continuous period of more than six months.
- (7) A section 8 order may—
- (a) contain directions about how it is to be carried into effect;
 - (b) impose conditions which must be complied with by any person—
 - (i) in whose favour the order is made;
 - (ii) who is a parent of the child concerned;
 - (iii) who is not a parent of his but who has parental responsibility for him;
 or
 - (iv) with whom the child is living,
 and to whom the conditions are expressed to apply;
 - (c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period;
 - (d) make such incidental, supplemental or consequential provision as the court thinks fit.

Modifications etc. (not altering text)

C1 S. 11(3) restricted (14. 10. 1991) by S.I. 1991/1395, r.28

Commencement Information

I4 S. 11 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

[^{F14}11A Contact activity directions

- (1) This section applies in proceedings in which the court is considering whether to make provision about contact with a child by making—
 - (a) a contact order with respect to the child, or
 - (b) an order varying or discharging a contact order with respect to the child.
- (2) The court may make a contact activity direction in connection with that provision about contact.
- (3) A contact activity direction is a direction requiring an individual who is a party to the proceedings to take part in an activity that promotes contact with the child concerned.
- (4) The direction is to specify the activity and the person providing the activity.
- (5) The activities that may be so required include, in particular—
 - (a) programmes, classes and counselling or guidance sessions of a kind that—
 - (i) may assist a person as regards establishing, maintaining or improving contact with a child;
 - (ii) may, by addressing a person's violent behaviour, enable or facilitate contact with a child;
 - (b) sessions in which information or advice is given as regards making or operating arrangements for contact with a child, including making arrangements by means of mediation.

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- (6) No individual may be required by a contact activity direction—
 - (a) to undergo medical or psychiatric examination, assessment or treatment;
 - (b) to take part in mediation.
- (7) A court may not on the same occasion—
 - (a) make a contact activity direction, and
 - (b) dispose finally of the proceedings as they relate to contact with the child concerned.
- (8) Subsection (2) has effect subject to the restrictions in sections 11B and 11E.
- (9) In considering whether to make a contact activity direction, the welfare of the child concerned is to be the court's paramount consideration.]

Textual Amendments

F14 S. 11A inserted (7.11.2008) by Children and Adoption Act 2006 (c. 20), ss. 1, 17; S.I. 2008/2870, art. 2(1)

[^{F15}11B Contact activity directions: further provision

- (1) A court may not make a contact activity direction in any proceedings unless there is a dispute as regards the provision about contact that the court is considering whether to make in the proceedings.
- (2) A court may not make a contact activity direction requiring an individual who is a child to take part in an activity unless the individual is a parent of the child in relation to whom the court is considering provision about contact.
- (3) A court may not make a contact activity direction in connection with the making, variation or discharge of a contact order, if the contact order is, or would if made be, an excepted order.
- (4) A contact order with respect to a child is an excepted order if—
 - (a) it is made in proceedings that include proceedings on an application for a relevant adoption order in respect of the child; or
 - (b) it makes provision as regards contact between the child and a person who would be a parent or relative of the child but for the child's adoption by an order falling within subsection (5).
- (5) An order falls within this subsection if it is—
 - (a) a relevant adoption order;
 - (b) an adoption order, within the meaning of section 72(1) of the Adoption Act 1976, other than an order made by virtue of section 14 of that Act on the application of a married couple one of whom is the mother or the father of the child;
 - (c) a Scottish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made—
 - (i) by virtue of section 14 of the Adoption (Scotland) Act 1978 on the application of a married couple one of whom is the mother or the father of the child, or
 - (ii) by virtue of section 15(1)(aa) of that Act; or

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- (d) a Northern Irish adoption order, within the meaning of the Adoption and Children Act 2002, other than an order made by virtue of Article 14 of the Adoption (Northern Ireland) Order 1987 on the application of a married couple one of whom is the mother or the father of the child.
- (6) A relevant adoption order is an adoption order, within the meaning of section 46(1) of the Adoption and Children Act 2002, other than an order made—
 - (a) on an application under section 50 of that Act by a couple (within the meaning of that Act) one of whom is the mother or the father of the person to be adopted, or
 - (b) on an application under section 51(2) of that Act.
- (7) A court may not make a contact activity direction in relation to an individual unless the individual is habitually resident in England and Wales; and a direction ceases to have effect if the individual subject to the direction ceases to be habitually resident in England and Wales.]

Textual Amendments

F15 S. 11B inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

[^{F16}11C Contact activity conditions

- (1) This section applies if in any family proceedings the court makes—
 - (a) a contact order with respect to a child, or
 - (b) an order varying a contact order with respect to a child.
- (2) The contact order may impose, or the contact order may be varied so as to impose, a condition (a “contact activity condition”) requiring an individual falling within subsection (3) to take part in an activity that promotes contact with the child concerned.
- (3) An individual falls within this subsection if he is—
 - (a) for the purposes of the contact order so made or varied, the person with whom the child concerned lives or is to live;
 - (b) the person whose contact with the child concerned is provided for in that order; or
 - (c) a person upon whom that order imposes a condition under section 11(7)(b).
- (4) The condition is to specify the activity and the person providing the activity.
- (5) Subsections (5) and (6) of section 11A have effect as regards the activities that may be required by a contact activity condition as they have effect as regards the activities that may be required by a contact activity direction.
- (6) Subsection (2) has effect subject to the restrictions in sections 11D and 11E.]

Textual Amendments

F16 S. 11C inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

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[^{F17}11D Contact activity conditions: further provision

- (1) A contact order may not impose a contact activity condition on an individual who is a child unless the individual is a parent of the child concerned.
- (2) If a contact order is an excepted order (within the meaning given by section 11B(4)), it may not impose (and it may not be varied so as to impose) a contact activity condition.
- (3) A contact order may not impose a contact activity condition on an individual unless the individual is habitually resident in England and Wales; and a condition ceases to have effect if the individual subject to the condition ceases to be habitually resident in England and Wales.]

Textual Amendments

F17 S. 11D inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; [S.I. 2008/2870](#), **art. 2(1)**

[^{F18}11E Contact activity directions and conditions: making

- (1) Before making a contact activity direction (or imposing a contact activity condition by means of a contact order), the court must satisfy itself as to the matters falling within subsections (2) to (4).
- (2) The first matter is that the activity proposed to be specified is appropriate in the circumstances of the case.
- (3) The second matter is that the person proposed to be specified as the provider of the activity is suitable to provide the activity.
- (4) The third matter is that the activity proposed to be specified is provided in a place to which the individual who would be subject to the direction (or the condition) can reasonably be expected to travel.
- (5) Before making such a direction (or such an order), the court must obtain and consider information about the individual who would be subject to the direction (or the condition) and the likely effect of the direction (or the condition) on him.
- (6) Information about the likely effect of the direction (or the condition) may, in particular, include information as to—
 - (a) any conflict with the individual's religious beliefs;
 - (b) any interference with the times (if any) at which he normally works or attends an educational establishment.
- (7) The court may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) to (5); and it shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any such request.
- (8) In this section “specified” means specified in a contact activity direction (or in a contact activity condition).]

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Textual Amendments

F18 S. 11E inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

[^{F19}11F Contact activity directions and conditions: financial assistance

- (1) The Secretary of State may by regulations make provision authorising him to make payments to assist individuals falling within subsection (2) in paying relevant charges or fees.
- (2) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child, not being a child ordinarily resident in Wales.
- (3) The National Assembly for Wales may by regulations make provision authorising it to make payments to assist individuals falling within subsection (4) in paying relevant charges or fees.
- (4) An individual falls within this subsection if he is required by a contact activity direction or condition to take part in an activity that promotes contact with a child who is ordinarily resident in Wales.
- (5) A relevant charge or fee, in relation to an activity required by a contact activity direction or condition, is a charge or fee in respect of the activity payable to the person providing the activity.
- (6) Regulations under this section may provide that no assistance is available to an individual unless—
 - (a) the individual satisfies such conditions as regards his financial resources as may be set out in the regulations;
 - (b) the activity in which the individual is required by a contact activity direction or condition to take part is provided to him in England or Wales;
 - (c) where the activity in which the individual is required to take part is provided to him in England, it is provided by a person who is for the time being approved by the Secretary of State as a provider of activities required by a contact activity direction or condition;
 - (d) where the activity in which the individual is required to take part is provided to him in Wales, it is provided by a person who is for the time being approved by the National Assembly for Wales as a provider of activities required by a contact activity direction or condition.
- (7) Regulations under this section may make provision—
 - (a) as to the maximum amount of assistance that may be paid to or in respect of an individual as regards an activity in which he is required by a contact activity direction or condition to take part;
 - (b) where the amount may vary according to an individual's financial resources, as to the method by which the amount is to be determined;
 - (c) authorising payments by way of assistance to be made directly to persons providing activities required by a contact activity direction or condition.]

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Textual Amendments

F19 S. 11F inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

[^{F20} 11G Contact activity directions and conditions: monitoring

- (1) This section applies if in any family proceedings the court—
 - (a) makes a contact activity direction in relation to an individual, or
 - (b) makes a contact order that imposes, or varies a contact order so as to impose, a contact activity condition on an individual.
- (2) The court may on making the direction (or imposing the condition by means of a contact order) ask an officer of the Service or a Welsh family proceedings officer—
 - (a) to monitor, or arrange for the monitoring of, the individual's compliance with the direction (or the condition);
 - (b) to report to the court on any failure by the individual to comply with the direction (or the condition).
- (3) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).]

Textual Amendments

F20 S. 11G inserted (7.11.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 1, 17**; S.I. 2008/2870, **art. 2(1)**

VALID FROM 08/12/2008

[^{F21} 11H Monitoring contact

- (1) This section applies if in any family proceedings the court makes—
 - (a) a contact order with respect to a child in favour of a person, or
 - (b) an order varying such a contact order.
- (2) The court may ask an officer of the Service or a Welsh family proceedings officer—
 - (a) to monitor whether an individual falling within subsection (3) complies with the contact order (or the contact order as varied);
 - (b) to report to the court on such matters relating to the individual's compliance as the court may specify in the request.
- (3) An individual falls within this subsection if the contact order so made (or the contact order as so varied)—
 - (a) requires the individual to allow contact with the child concerned;
 - (b) names the individual as having contact with the child concerned; or
 - (c) imposes a condition under section 11(7)(b) on the individual.

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- (4) If the contact order (or the contact order as varied) includes a contact activity condition, a request under subsection (2) is to be treated as relating to the provisions of the order other than the contact activity condition.
- (5) The court may make a request under subsection (2)—
 - (a) on making the contact order (or the order varying the contact order), or
 - (b) at any time during the subsequent course of the proceedings as they relate to contact with the child concerned.
- (6) In making a request under subsection (2), the court is to specify the period for which the officer of the Service or Welsh family proceedings officer is to monitor compliance with the order; and the period specified may not exceed twelve months.
- (7) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under subsection (2).
- (8) The court may order any individual falling within subsection (3) to take such steps as may be specified in the order with a view to enabling the officer of the Service or Welsh family proceedings officer to comply with the court's request under subsection (2).
- (9) But the court may not make an order under subsection (8) with respect to an individual who is a child unless he is a parent of the child with respect to whom the order falling within subsection (1) was made.
- (10) A court may not make a request under subsection (2) in relation to a contact order that is an excepted order (within the meaning given by section 11B(4)).]

Textual Amendments

F21 S. 11H inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 2, 17**; S.I. 2008/2870, **art. 2(2)(b)**

VALID FROM 08/12/2008

[^{F22}11I **Contact orders: warning notices**

Where the court makes (or varies) a contact order, it is to attach to the contact order (or the order varying the contact order) a notice warning of the consequences of failing to comply with the contact order.]

Textual Amendments

F22 S. 11I inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 3, 17** (with s. 8); S.I. 2008/2870, **art. 2(2)(b)**

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VALID FROM 08/12/2008

[^{F23}11J Enforcement orders

- (1) This section applies if a contact order with respect to a child has been made.
- (2) If the court is satisfied beyond reasonable doubt that a person has failed to comply with the contact order, it may make an order (an “enforcement order”) imposing on the person an unpaid work requirement.
- (3) But the court may not make an enforcement order if it is satisfied that the person had a reasonable excuse for failing to comply with the contact order.
- (4) The burden of proof as to the matter mentioned in subsection (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.
- (5) The court may make an enforcement order in relation to the contact order only on the application of—
 - (a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;
 - (b) the person whose contact with the child concerned is provided for in the contact order;
 - (c) any individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or
 - (d) the child concerned.
- (6) Where the person proposing to apply for an enforcement order in relation to a contact order is the child concerned, the child must obtain the leave of the court before making such an application.
- (7) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.
- (8) Subsection (2) has effect subject to the restrictions in sections 11K and 11L.
- (9) The court may suspend an enforcement order for such period as it thinks fit.
- (10) Nothing in this section prevents a court from making more than one enforcement order in relation to the same person on the same occasion.
- (11) Proceedings in which any question of making an enforcement order, or any other question with respect to such an order, arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.
- (12) In Schedule A1—
 - (a) Part 1 makes provision as regards an unpaid work requirement;
 - (b) Part 2 makes provision in relation to the revocation and amendment of enforcement orders and failure to comply with such orders.
- (13) This section is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to contact orders.]

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Textual Amendments

F23 S. 11J inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17 (with s. 8); S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

[^{F24}11K Enforcement orders: further provision

- (1) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—
 - (a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;
 - (b) in any other case, a notice under section 11I relating to the contact order.
- (2) A court may not make an enforcement order against a person in respect of any failure to comply with a contact order occurring before the person attained the age of 18.
- (3) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).
- (4) A court may not make an enforcement order against a person unless the person is habitually resident in England and Wales; and an enforcement order ceases to have effect if the person subject to the order ceases to be habitually resident in England and Wales.]

Textual Amendments

F24 S. 11K inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17 (with s. 8); S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

[^{F25}11L Enforcement orders: making

- (1) Before making an enforcement order as regards a person in breach of a contact order, the court must be satisfied that—
 - (a) making the enforcement order proposed is necessary to secure the person's compliance with the contact order or any contact order that has effect in its place;
 - (b) the likely effect on the person of the enforcement order proposed to be made is proportionate to the seriousness of the breach of the contact order.

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- (2) Before making an enforcement order, the court must satisfy itself that provision for the person to work under an unpaid work requirement imposed by an enforcement order can be made in the local justice area in which the person in breach resides or will reside.
- (3) Before making an enforcement order as regards a person in breach of a contact order, the court must obtain and consider information about the person and the likely effect of the enforcement order on him.
- (4) Information about the likely effect of the enforcement order may, in particular, include information as to—
 - (a) any conflict with the person's religious beliefs;
 - (b) any interference with the times (if any) at which he normally works or attends an educational establishment.
- (5) A court that proposes to make an enforcement order may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) and (3).
- (6) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.
- (7) In making an enforcement order in relation to a contact order, a court must take into account the welfare of the child who is the subject of the contact order.]

Textual Amendments

F25 S. 11L inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 4(1), 17; S.I. 2008/2870, art. 2(2)(c)

VALID FROM 08/12/2008

[^{F26}11M Enforcement orders: monitoring

- (1) On making an enforcement order in relation to a person, the court is to ask an officer of the Service or a Welsh family proceedings officer—
 - (a) to monitor, or arrange for the monitoring of, the person's compliance with the unpaid work requirement imposed by the order;
 - (b) to report to the court if a report under paragraph 8 of Schedule A1 is made in relation to the person;
 - (c) to report to the court on such other matters relating to the person's compliance as may be specified in the request;
 - (d) to report to the court if the person is, or becomes, unsuitable to perform work under the requirement.
- (2) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.]

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Textual Amendments

F26 S. 11M inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

[^{F27} 11N Enforcement orders: warning notices

Where the court makes an enforcement order, it is to attach to the order a notice warning of the consequences of failing to comply with the order.]

Textual Amendments

F27 S. 11N inserted (8.12.2008) by [Children and Adoption Act 2006 \(c. 20\)](#), **ss. 4(1)**, 17; S.I. 2008/2870, **art. 2(2)(c)**

VALID FROM 08/12/2008

[^{F28} 11O Compensation for financial loss

- (1) This section applies if a contact order with respect to a child has been made.
- (2) If the court is satisfied that—
 - (a) an individual has failed to comply with the contact order, and
 - (b) a person falling within subsection (6) has suffered financial loss by reason of the breach,
 it may make an order requiring the individual in breach to pay the person compensation in respect of his financial loss.
- (3) But the court may not make an order under subsection (2) if it is satisfied that the individual in breach had a reasonable excuse for failing to comply with the contact order.
- (4) The burden of proof as to the matter mentioned in subsection (3) lies on the individual claiming to have had a reasonable excuse.
- (5) An order under subsection (2) may be made only on an application by the person who claims to have suffered financial loss.
- (6) A person falls within this subsection if he is—
 - (a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;
 - (b) the person whose contact with the child concerned is provided for in the contact order;
 - (c) an individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or
 - (d) the child concerned.

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- (7) Where the person proposing to apply for an order under subsection (2) is the child concerned, the child must obtain the leave of the court before making such an application.
- (8) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.
- (9) The amount of compensation is to be determined by the court, but may not exceed the amount of the applicant's financial loss.
- (10) In determining the amount of compensation payable by the individual in breach, the court must take into account the individual's financial circumstances.
- (11) An amount ordered to be paid as compensation may be recovered by the applicant as a civil debt due to him.
- (12) Subsection (2) has effect subject to the restrictions in section 11P.
- (13) Proceedings in which any question of making an order under subsection (2) arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.
- (14) In exercising its powers under this section, a court is to take into account the welfare of the child concerned.]

Textual Amendments

F28 S. 11O inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 5, 17; S.I. 2008/2870, art. 2(2)(d)

VALID FROM 08/12/2008

[^{F29}11P Orders under section 11O(2): further provision

- (1) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order unless it is satisfied that before the failure occurred the individual had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—
 - (a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;
 - (b) in any other case, a notice under section 11I relating to the contact order.
- (2) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order where the failure occurred before the individual attained the age of 18.
- (3) A court may not make an order under section 11O(2) requiring an individual to pay compensation in respect of a failure by him to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).]

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Textual Amendments

- F29** S. 11P inserted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 5, 17 (with s. 8); S.I. 2008/2870, art. 2(2)(d)

12 Residence orders and parental responsibility.

- (1) Where the court makes a residence order in favour of the father of a child it shall, if the father would not otherwise have parental responsibility for the child, also make an order under section 4 giving him that responsibility.
- (2) Where the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned that person shall have parental responsibility for the child while the residence order remains in force.
- (3) Where a person has parental responsibility for a child as a result of subsection (2), he shall not have the right—
 - (a) ^{F30}
 - (b) to agree, or refuse to agree, to the making of an adoption order, or an order under [^{F31}section 84 of the Adoption and Children Act 2002], with respect to the child; or
 - (c) to appoint a guardian for the child.
- (4) Where subsection (1) requires the court to make an order under section 4 in respect of the father of a child, the court shall not bring that order to an end at any time while the residence order concerned remains in force.
- [^{F32}(5) The power of a court to make a residence order in favour of any person who is not the parent or guardian of the child concerned includes power to direct, at the request of that person, that the order continue in force until the child reaches the age of eighteen (unless the order is brought to an end earlier); and any power to vary a residence order is exercisable accordingly.
- (6) Where a residence order includes such a direction, an application to vary or discharge the order may only be made, if apart from this subsection the leave of the court is not required, with such leave]

Textual Amendments

- F30** S. 12(3)(a) repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 57(a), Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o); S.I. 2005/2897, art. 2(a)
- F31** Words in s. 12(3)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 57(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F32** S. 12(5)(6) inserted (30.12.2005) by 2002 c. 38, ss. 114(1), 148 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(k)

Commencement Information

- I5** S. 12 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

13 Change of child's name or removal from jurisdiction.

- (1) Where a residence order is in force with respect to a child, no person may—

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- (a) cause the child to be known by a new surname; or
 - (b) remove him from the United Kingdom;
- without either the written consent of every person who has parental responsibility for the child or the leave of the court.
- (2) Subsection (1)(b) does not prevent the removal of a child, for a period of less than one month, by the person in whose favour the residence order is made.
 - (3) In making a residence order with respect to a child the court may grant the leave required by subsection (1)(b), either generally or for specified purposes.

Commencement Information

I6 S. 13 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

14 Enforcement of residence orders.

- (1) Where—
 - (a) a residence order is in force with respect to a child in favour of any person; and
 - (b) any other person (including one in whose favour the order is also in force) is in breach of the arrangements settled by that order,the person mentioned in paragraph (a) may, as soon as the requirement in subsection (2) is complied with, enforce the order under section 63(3) of the ^{M6}Magistrates' Courts Act 1980 as if it were an order requiring the other person to produce the child to him.
- (2) The requirement is that a copy of the residence order has been served on the other person.
- (3) Subsection (1) is without prejudice to any other remedy open to the person in whose favour the residence order is in force.

Commencement Information

I7 S. 14 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Marginal Citations

M6 1980 c. 43.

Status:

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