



# Children Act 1989

## 1989 CHAPTER 41

### PART I

#### INTRODUCTORY

#### **1 Welfare of the child.**

- (1) When a court determines any question with respect to—
- (a) the upbringing of a child; or
  - (b) the administration of a child's property or the application of any income arising from it,
- the child's welfare shall be the court's paramount consideration.

- (2) In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

[<sup>F1</sup>(2A) A court, in the circumstances mentioned in subsection (4)(a) or (7), is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare.

- (2B) In subsection (2A) "involvement" means involvement of some kind, either direct or indirect, but not any particular division of a child's time.]

- (3) In the circumstances mentioned in subsection (4), a court shall have regard in particular to—
- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
  - (b) his physical, emotional and educational needs;
  - (c) the likely effect on him of any change in his circumstances;
  - (d) his age, sex, background and any characteristics of his which the court considers relevant;
  - (e) any harm which he has suffered or is at risk of suffering;

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*Changes to legislation: Children Act 1989, Section 1 is up to date with all changes known to be in force on or before 17 April 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*

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- (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
  - (g) the range of powers available to the court under this Act in the proceedings in question.
- (4) The circumstances are that—
- (a) the court is considering whether to make, vary or discharge a section 8 order, and the making, variation or discharge of the order is opposed by any party to the proceedings; or
  - (b) the court is considering whether to make, vary or discharge [<sup>F2</sup>a special guardianship order or] an order under Part IV.
- (5) Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.
- [<sup>F3</sup>(6) In subsection (2A) “parent” means parent of the child concerned; and, for the purposes of that subsection, a parent of the child concerned—
- (a) is within this paragraph if that parent can be involved in the child's life in a way that does not put the child at risk of suffering harm; and
  - (b) is to be treated as being within paragraph (a) unless there is some evidence before the court in the particular proceedings to suggest that involvement of that parent in the child's life would put the child at risk of suffering harm whatever the form of the involvement.
- (7) The circumstances referred to are that the court is considering whether to make an order under section 4(1)(c) or (2A) or 4ZA(1)(c) or (5) (parental responsibility of parent other than mother).]

#### Textual Amendments

- F1** S. 1(2A)(2B) inserted (22.10.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 11(2)**, 139(6); S.I. 2014/2749, **art. 3** (with **art. 4**)
- F2** Words in s. 1(4)(b) inserted (30.12.2005) by [2002 c. 38](#), **ss. 115(3)**, 148 (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, **art. 2(k)**
- F3** S. 1(6)(7) inserted (22.10.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 11(3)**, 139(6); S.I. 2014/2749, **art. 3** (with **art. 4**)

#### Modifications etc. (not altering text)

- C1** S. 1(2)(3)(a)-(f) applied with modifications (14. 10. 1991) by [S.I. 1991/1395](#), r. 11(1) (as amended (8.12.2008) by [The Family Proceedings Courts \(Children Act 1989\) \(Amendment\) Rules 2008](#), ([S.I. 2008/2858](#)), {rule 7})

#### Commencement Information

- I1** S. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), **art. 3(2)**

**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. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 8(4)(k) inserted by 2021 c. 17 s. 52(1)
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)