



Children Act 1989

1989 CHAPTER 41

PART II

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

General

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 [^{F1}, guardian or special guardian] of the child;
 - [^{F2}(aa) any person who by virtue of section 4A has parental responsibility for the child;]
 - (b) any person in whose favour a residence order is in force with respect to the child.

Status: Point in time view as at 30/12/2005. This version of this provision has been superseded.

Changes to legislation: Children Act 1989, Section 10 is up to date with all changes known to be in force on or before 22 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)

- (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;
 - [^{F3}(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.
- [^{F4}(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.
- [^{F5}(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.
- (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.

Status: Point in time view as at 30/12/2005. This version of this provision has been superseded.

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Textual Amendments

- F1** 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)**
- F2** 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)**
- F3** 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
- F4** 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)**
- F5** 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

- I1** S. 10 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status:

Point in time view as at 30/12/2005. This version of this provision has been superseded.

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