



Children Act 1989

1989 CHAPTER 41

PART XII

MISCELLANEOUS AND GENERAL

General

105 Interpretation.

(1) In this Act—

“adoption agency” means a body which may be referred to as an adoption agency by virtue of [^{F1}section 2 of the Adoption and Children Act 2002];

[^{F2}“appropriate children’s home” has the meaning given by section 23;]

“bank holiday” means a day which is a bank holiday under the ^{M1}Banking and Financial Dealings Act 1971;

[^{F3}“care home” has the same meaning as in the Care Standards Act 2000;

“care order” has the meaning given by section 31(11) and also includes any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Act; and any reference to a child who is in the care of an authority is a reference to a child who is in their care by virtue of a care order;

“child” means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen;

“child assessment order” has the meaning given by section 43(2);

[^{F4}“child minder” has the meaning given by section 71;]

[^{F5}“child of the family”, in relation to parties to a marriage, or to two people who are civil partners of each other, means—

(a) a child of both of them, and

(b) any other child, other than a child placed with them as foster parents by a local authority or voluntary organisation, who has been treated by both of them as a child of their family.]

[^{F6}“children’s home” has the meaning given by section 23;]

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- “community home” has the meaning given by section 53;
- “contact order” has the meaning given by section 8(1);
- “day care” [^{F7}(except in Part XA)] has the same meaning as in section 18;
- “disabled”, in relation to a child, has the same meaning as in section 17(11);
- ^{F8} . . .
- “domestic premises” has the meaning given by section 71(12);
- [^{F9}“dwelling-house” includes—
- (a) any building or part of a building which is occupied as a dwelling;
- (b) any caravan, house-boat or structure which is occupied as a dwelling;
- and any yard, garden, garage or outhouse belonging to it and occupied with it;]
- “education supervision order” has the meaning given in section 36;
- “emergency protection order” means an order under section 44;
- “family assistance order” has the meaning given in section 16(2);
- “family proceedings” has the meaning given by section 8(3);
- “functions” includes powers and duties;
- “guardian of a child” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 5;
- “harm” has the same meaning as in section 31(9) and the question of whether harm is significant shall be determined in accordance with section 31(10);
- ^{F10}
- “health service hospital” [^{F11}means a health service hospital within the meaning given by the National Health Service Act 2006 or the National Health Service (Wales) Act 2006]
- “hospital” [^{F12}(except in Schedule 9A)] has the same meaning as in the ^{M2}Mental Health Act 1983, except that it does not include a special hospital within the meaning of that Act;
- “ill-treatment” has the same meaning as in section 31(9);
- [^{F13}“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]
- [^{F14}“independent hospital” has the same meaning as in the Care Standards Act 2000;
- “independent school” has the same meaning as in [^{F15}the Education Act 1996];
- “local authority” means, in relation to England ^{F16}. . . , the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London [^{F17}in relation to Wales, the council of a county or a county borough] and, in relation to Scotland, a local authority within the meaning of section 1(2) of the ^{M3}Social Work (Scotland) Act 1968;
- “local authority foster parent” has the same meaning as in section 23(3);
- “local education authority” has the same meaning as in [^{F15}the Education Act 1996];
- “local housing authority” has the same meaning as in the ^{M4}Housing Act 1985;
- [^{F18}“mental nursing home” has the same meaning as in the ^{M5}Registered Homes Act 1984;]

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- [^{F19}“nursing home” has the same meaning as in the Act of 1984;]
- [^{F20}“officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000;]
- “parental responsibility” has the meaning given in section 3;
- “parental responsibility agreement” has the meaning given in [^{F21}sections 4(1) and 4A(2)];
- “prescribed” means prescribed by regulations made under this Act;
- [^{F22}“private children’s home” means a children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000 which is not a community home or a voluntary home;]
- [^{F23}“Primary Care Trust” means a Primary Care Trust established under [^{F24}section 18 of the National Health Service Act 2006];
- “privately fostered child” and “to foster a child privately” have the same meaning as in section 66;
- “prohibited steps order” has the meaning given by section 8(1);
- ^{F25}
- [^{F26}“registered children’s home” has the same meaning as in section 63;]
- “registered pupil” has the same meaning as in [^{F15}the Education Act 1996];
- “relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or [^{F27}by marriage or civil partnership]) or step-parent;
- “residence order” has the meaning given by section 8(1);
- [^{F28}“residential care home” has the same meaning as in the Registered Homes Act 1984 [^{F29} and “small home” has the meaning given by section 1(4A) of that Act];]
- “responsible person”, in relation to a child who is the subject of a supervision order, has the meaning given in paragraph 1 of Schedule 3;
- “school” has the same meaning as in [^{F15}the Education Act 1996] or, in relation to Scotland, in the ^{M6}Education (Scotland) Act 1980;
- [^{F30}“section 31A plan” has the meaning given by section 31A(6);]
- “service”, in relation to any provision made under Part III, includes any facility;
- “signed”, in relation to any person, includes the making by that person of his mark;
- “special educational needs” has the same meaning as in [^{F31}the Education Act 1996];
- [^{F32}“special guardian” and “special guardianship order” have the meaning given by section 14A;]
- [^{F33}“Special Health Authority” means a Special Health Authority established under [^{F34}section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006.];]
- “specific issue order” has the meaning given by section 8(1);
- [^{F35}“Strategic Health Authority” means a Strategic Health Authority established under [^{F36}section 13 of the National Health Service Act 2006];]
- “supervision order” has the meaning given by section 31(11);
- “supervised child” and “supervisor”, in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to

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be) under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

“upbringing”, in relation to any child, includes the care of the child but not his maintenance;

“voluntary home” has the meaning given by section 60;

“voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit.

[^{F37}“Welsh family proceedings officer” has the meaning given by section 35 of the Children Act 2004.]

(2) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the ^{M7}Family Law Reform Act 1987 (which extends the meaning of such references).

(3) References in this Act to—

(a) a person with whom a child lives, or is to live, as the result of a residence order; or

(b) a person in whose favour a residence order is in force,

shall be construed as references to the person named in the order as the person with whom the child is to live.

(4) References in this Act to a child who is looked after by a local authority have the same meaning as they have (by virtue of section 22) in Part III.

(5) References in this Act to accommodation provided by or on behalf of a local authority are references to accommodation so provided in the exercise of functions [^{F38}of that or any other local authority which are social services functions within the meaning of] the ^{M8}Local Authority Social Services Act 1970.

[References in this Act to a child minder shall be construed—

^{F39}(5A) [in relation to Scotland, in accordance with section 71;]

^{F40}(a)

(b) in relation to England and Wales, in accordance with section 79A.]

^{F41}(5B) [References in this Act to acting as a child minder and to a child minder shall be construed, in relation to Scotland, in accordance with section 2(17) of the Regulation of Care (Scotland) Act 2001 (asp 8).]

(6) In determining the “ordinary residence” of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—

(a) which is a school or other institution;

(b) in accordance with the requirements of a supervision order under this Act or an order under [^{F42}section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000]; or

(c) while he is being provided with accommodation by or on behalf of a local authority.

(7) References in this Act to children who are in need shall be construed in accordance with section 17.

(8) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service at his proper address.

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- (9) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (10) For the purposes of this section, and of section 7 of the ^{M9}Interpretation Act 1978 in its application to this section, the proper address of a person—
- (a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;
 - (b) in the case of a partner of a firm, shall be that of the principal office of the firm; and
 - (c) in any other case, shall be the last known address of the person to be served.]]]

Textual Amendments

- F1** S. 105(1): words in definition of "adoption agency" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 70(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F2** S. 105(1): definition of "appropriate children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(i); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F3** S. 105(1): definition of "care home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(ii); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F4** S. 105(1): definition of "child minder" repealed (1.4.2002 for W. and otherwise (prosp.) by 2000 c. 14, ss. 117(2), 122, Sch. 6; S.I. 2002/920, art. 3(3)(g) (with arts. 3(5)-(10))
- F5** S. 105(1): definition of "child of the family" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 75(3); S.I. 2005/3175, art. 2(1), Sch. 1
- F6** S. 105(1): definition of "children's home" substituted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(iii); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F7** S. 105(1): words in the definition of "day care" inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(iv); S.I. 2001/2041, art. 2(1)(d)(ii) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F8** Definition of "district health authority" in s. 105(1) repealed (1.4.1996) by 1995 c. 17, ss. 2(1), 5(1)(2), Schs. 1, para. 118(10)(a), 3 (with Sch. 2 paras. 6, 16)
- F9** Definition in s. 105(1) inserted (1.10.1997) by 1996, c. 27, s. 52, Sch. 6 para. 5 (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, art. 3
- F10** S. 105: definition of "health authority" omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, Sch. 1 para. 125(a)
- F11** S. 105: words in definition of "health service hospital" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, Sch. 1 para. 125(b)
- F12** S. 105(1): words in the definition of "hospital" inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(v); S.I. 2001/2041, art. 2(1)(d)(ii) (with transitional provisions and savings in Sch.); S.I. 2002/920, art. 3(3)(d) (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F13** Definition of "income-based jobseeker's allowance" in s. 105 inserted (7.10.1996) by 1995 c. 18, s. 41(4), Sch. 2 para. 19(4); S.I. 1996/2208, art. 2(b)
- F14** S. 105(1): definition of "independent hospital" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, Sch. 4 para. 14(23)(a)(vi); S.I. 2001/4150, art. 3(3)(a) (subject to transitional provision in art. 4 of the

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- commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with **art. 3(4)-(10)** and transitional provisions in **Schs. 1-3**)
- F15** Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 91**(with **Sch. 39**, paras. 30, 39)
- F16** Words in s. 105(1) repealed (1.4.1996) by 1994 c. 19, ss. 22(4), s. 66(8), **Sch. 10 para. 13**, **Sch. 18**(with s. 66(7), **Sch. 17** paras. 22, 23(2)); S.I. 1996/396, **art. 4**, **Sch. 2**
- F17** Words in definition of "local authority" in s. 105(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 13** (with s. 66(7), **Sch. 17** paras. 22, 23(2)); S.I. 1996/396, **art. 4**, **Sch. 2**
- F18** S. 105(1): definition of "mental nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)** and transitional provisions in **Schs. 1-3**)
- F19** S. 105(1): definition of "nursing home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(5)-(10)** and transitional provisions in **Schs. 1-3**)
- F20** S. 105(1): definition of "officer of the Service" inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 95**; S.I. 2001/919, **art. 2(f)(ii)**
- F21** S. 105(1): words in definition of "parental responsibility agreement" substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(c)** (with **Sch. 4** paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F22** S. 105(1): definition of "private children's home" inserted (1.4.2002 (E.W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(23)(a)(vii)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with **art. 3(4)-(10)** and transitional provisions in **Schs. 1-3**)
- F23** S. 105(1): definition of "Primary Care Trust" inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(10)** (with art. 2(5))
- F24** S. 105: words in definition of "Primary Care Trust" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(c)**
- F25** S. 105(1): definition of "protected child" repealed (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(d)**, **Sch. 5** (with **Sch. 4** paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F26** S. 105(1): definition of "registered children's home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(4)-(10)** and transitional provisions in **Schs. 1-3**)
- F27** S. 105(1): words in definition of "relative" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 75(4); S.I. 2005/3175, **art. 2(1)**, **Sch. 1**
- F28** S. 105(1): definition of "residential care home" repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(g)** (with **art. 3(4)-(10)** and transitional provisions in **Schs. 1-3**)
- F29** Words in s. 105(1) inserted (1.4.1993) by Registered Homes Act 1991 (c. 20, SIF 113:3), s. 2(6); S.I. 1992/2240, **art. 2**.
- F30** S. 105(1): definition of "section 31A plan" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(b)** (with **Sch. 4** paras 6-8); S.I. 2005/2213, **art. 2(o)**
- F31** Words in s. 105(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I**, para. 91(with **Sch. 39**, paras. 30, 39)
- F32** S. 105(1): definition of "special guardian" and "special guardianship order" inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, **Sch. 3 para. 70(e)** (with **Sch. 4** paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F33** Definition of "special health authority" in s. 105(1) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(10)(c)(with **Sch. 2** para. 6)
- F34** S. 105: words in definition of "Special Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(d)**

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- F35** S. 105(1): definition of "Strategic Health Authority" inserted (1.10.2002) by S.I. 2002/2469, reg. 4, **Sch. 1 Pt. 1 para. 16(3)**
- F36** S. 105: words in definition of "Strategic Health Authority" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 2, **Sch. 1 para. 125(e)**
- F37** S. 105(1): definition of "Welsh family proceedings officer" inserted (1.4.2005) by Children Act 2004, (c. 31), s. 40, {Sch. 3 para. 11}; S.I. 2005/700, **art. 2(2)**
- F38** Words in s. 105(5) substituted (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 22**; S.I. 2000/2849, **art. 2(f)**
- F39** S. 105(5A) inserted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, s. 116, **Sch. 4 para. 14(23)(b)**; S.I. 2001/2041, **art. 2(1)(d)(ii)** (with transitional provisions and savings in Sch.); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F40** S. 105(5A)(a) repealed (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 15(2)(a)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)
- F41** S. 105(5B) inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 15(2)(b)**; S.S.I. 2002/162, **art. 2(f)(h)** (subject to arts. 3-13)
- F42** Words in s. 105(6)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 129**

Modifications etc. (not altering text)

- C1** S. 105(4) applied (5.12.2003) (S.) by 1995 c. 36, s. 29(7) (as added (5.12.2003) (S.) by 2001 asp 8, ss. 73(1)(b), 81(1)); S.S.I. 2003/596, **art. 3(2)**

Commencement Information

- I1** S. 105 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Marginal Citations

- M1** 1971 c. 80.
M2 1983 c. 20.
M3 1968 c. 49.
M4 1985 c. 68.
M5 1984 c. 23.
M6 1980 c. 44.
M7 1987 c. 42.
M8 1970 c. 42.
M9 1978 c. 30.

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