Status: Point in time view as at 12/02/2002. This version of this provision has been superseded.
Changes to legislation: Children Act 1989, Section 45 is up to date with all changes known to be in force
on or before 22 May 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)

Children Act 1989

1989 CHAPTER 41

PART V

PROTECTION OF CHILDREN

45   Duration of emergency protection orders and other supplemental provisions.

(1) An emergency protection order shall have effect for such period, not exceeding eight days, as may be specified in the order.

(2) Where—
   (a)   the court making an emergency protection order would, but for this subsection, specify a period of eight days as the period for which the order is to have effect; but
   (b)   the last of those eight days is a public holiday (that is to say, Christmas Day, Good Friday, a bank holiday or a Sunday),

the court may specify a period which ends at noon on the first later day which is not such a holiday.

(3) Where an emergency protection order is made on an application under section 46(7), the period of eight days mentioned in subsection (1) shall begin with the first day on which the child was taken into police protection under section 46.

(4) Any person who—
   (a)   has parental responsibility for a child as the result of an emergency protection order; and
   (b)   is entitled to apply for a care order with respect to the child,

may apply to the court for the period during which the emergency protection order is to have effect to be extended.

(5) On an application under subsection (4) the court may extend the period during which the order is to have effect by such period, not exceeding seven days, as it thinks fit, but may do so only if it has reasonable cause to believe that the child concerned is likely to suffer significant harm if the order is not extended.

(6) An emergency protection order may only be extended once.

(7) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, a court hearing an application for, or with respect to, an emergency protection order may take account of—

(a) any statement contained in any report made to the court in the course of, or in connection with, the hearing; or

(b) any evidence given during the hearing,

which is, in the opinion of the court, relevant to the application.

(8) Any of the following may apply to the court for an emergency protection order to be discharged—

(a) the child;

(b) a parent of his;

(c) any person who is not a parent of his but who has parental responsibility for him; or

(d) any person with whom he was living immediately before the making of the order.

[**F1**(8A) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an emergency protection order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(8B) Where a power of arrest has been attached to an exclusion requirement of an emergency protection order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).]

(9) No application for the discharge of an emergency protection order shall be heard by the court before the expiry of the period of 72 hours beginning with the making of the order.

[**F2**(10) No appeal may be made against—

(a) the making of, or refusal to make, an emergency protection order;

(b) the extension of, or refusal to extend, the period during which such an order is to have effect;

(c) the discharge of, or refusal to discharge, such an order; or

(d) the giving of, or refusal to give, any direction in connection with such an order.]

(11) Subsection (8) does not apply—

(a) where the person who would otherwise be entitled to apply for the emergency protection order to be discharged—

(i) was given notice (in accordance with rules of court) of the hearing at which the order was made; and

(ii) was present at that hearing; or

(b) to any emergency protection order the effective period of which has been extended under subsection (5).

(12) A court making an emergency protection order may direct that the applicant may, in exercising any powers which he has by virtue of the order, be accompanied by a registered medical practitioner, registered nurse or [**F3**registered midwife], if he so chooses.

Textual Amendments

F1 S. 45(8A)(8B) inserted (1.10.1997) by 1996 c. 27, s. 52, **Sch. 6 para. 4**(with Sch. 9 para. 5); S.I. 1997/1892, **art. 3**

F2 S. 45(10) substituted (14.10.1991) by Courts and Legal Services Act (c. 41, SIF 76:1), s. 116, Sch. 16 para. 19; S.I. 1991/1883, art. 3, **Sch.**

F3 Words in s. 45(12) substituted by S.I. 2002/253, art. 54, **Sch. 5 para. 10(a)** (with art. 3(18)) (the substitution coming into force in accordance with art. 1(2)(3) of the said S.I. 2002/253)

Commencement Information

I1 S. 45 in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Status:
Point in time view as at 12/02/2002. This version of this provision has been superseded.

Changes to legislation:
Children Act 1989, Section 45 is up to date with all changes known to be in force on or before 22 May 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.