

SCHEDULES

SCHEDULE 2

Section 12

CHILD ARRANGEMENTS ORDERS: AMENDMENTS

PART 1

AMENDMENTS OF THE CHILDREN ACT 1989

- 1 The Children Act 1989 is amended as follows.
- 2 (1) Section 5 (appointment of guardians) is amended as follows.
 - (2) In subsection (1)(b) (application to court for appointment of guardian may be made following death of person with whom child was to live) for “residence order has been made with respect to the child in favour of a parent, guardian or special guardian of his who” substitute “parent, guardian or special guardian of the child’s was named in a child arrangements order as a person with whom the child was to live and”.
 - (3) In subsection (7)(b) (when non-court appointment of guardian under subsection (3) or (4) takes effect) for “residence order in his favour was in force with respect to the child or he” substitute “child arrangements order was in force in which the person was named as a person with whom the child was to live or the person”.
 - (4) In subsection (9)—
 - (a) for “residence” substitute “child arrangements”,
 - (b) for “was also made in favour of” substitute “also named”, and
 - (c) after “child” insert “as a person with whom the child was to live”.
- 3 In the title of section 8 for “Residence, contact” substitute “Child arrangements orders”.
- 4 (1) Section 9 (restrictions on making section 8 orders) is amended as follows.
 - (2) In subsection (1) (no section 8 order other than a residence order to be made if child is in care) for “residence order” substitute “child arrangements order to which subsection (6B) applies”.
 - (3) In subsection (2) (local authorities cannot obtain residence or contact orders) for “residence order or contact” substitute “child arrangements”.
 - (4) In subsection (5)(a) (specific issue order or prohibited steps order not to be made where result could be achieved by a residence or contact order) for “residence or contact” substitute “child arrangements”.
 - (5) In subsection (6) (section 8 orders other than residence orders are only exceptionally to have effect once child is 16) for “specific issue order, contact order or prohibited steps” substitute “section 8”.
 - (6) After subsection (6) insert—

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“(6A) Subsection (6) does not apply to a child arrangements order to which subsection (6B) applies.

(6B) This subsection applies to a child arrangements order if the arrangements regulated by the order relate only to either or both of the following—

- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.”

- 5 (1) Section 10 (power of court to make section 8 orders) is amended as follows.
- (2) For subsection (4)(b) (person may apply for section 8 order if residence order is in force in favour of the person) substitute—
- “(b) any person who is named, in a child arrangements order that is in force with respect to the child, as a person with whom the child is to live.”
- (3) In subsection (5) (persons entitled to apply for a residence or contact order)—
- (a) in the words before paragraph (a) for “residence or contact” substitute “child arrangements”,
 - (b) for paragraph (c)(i) substitute—
 - “(i) in any case where a child arrangements order in force with respect to the child regulates arrangements relating to with whom the child is to live or when the child is to live with any person, has the consent of each of the persons named in the order as a person with whom the child is to live;”,
 - and
 - (c) after paragraph (c) insert—
 - “(d) any person who has parental responsibility for the child by virtue of provision made under section 12(2A).”
- (4) In each of subsections (5A) and (5B) (foster parent, or relative, may apply for residence order if child has lived with applicant for at least a year) for “residence order” substitute “child arrangements order to which subsection (5C) applies”.
- (5) After subsection (5B) insert—
- “(5C) This subsection applies to a child arrangements order if the arrangements regulated by the order relate only to either or both of the following—
- (a) with whom the child concerned is to live, and
 - (b) when the child is to live with any person.”
- (6) In subsection (6)(b) (person may apply for variation or discharge of a contact order if named in the order)—
- (a) for “contact” substitute “child arrangements”, and
 - (b) for “the order.” substitute “provisions of the order regulating arrangements relating to—
 - (i) with whom the child concerned is to spend time or otherwise have contact, or
 - (ii) when the child is to spend time or otherwise have contact with any person.”

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- (7) In subsection (7A) (if special guardianship order in force, application for residence order may be made only with leave of the court) for “residence order” substitute “child arrangements order to which subsection (7B) applies”.
- (8) After subsection (7A) insert—
- “(7B) This subsection applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.”
- 6 (1) Section 11 (section 8 orders: general principles and supplementary provisions) is amended as follows.
- (2) Omit subsection (4) (residence order may make provision about when a child is to live with persons who do not live together).
- (3) In subsection (5) (residence order ceases to have effect where parents resume cohabitation for at least 6 months)—
- (a) in paragraph (a) for “residence” substitute “child arrangements”,
- (b) in paragraph (b) for the words before “two” substitute “the child has”, and
- (c) in the words after paragraph (b) for “residence order” substitute “order, so far as it has the result that there are times when the child lives or is to live with one of the parents,”.
- (4) In subsection (6) (contact order ceases to have effect where parents resume cohabitation for at least 6 months) for the words before “shall cease” substitute “A child arrangements order made with respect to a child, so far as it provides for the child to spend time or otherwise have contact with one of the child’s parents at times when the child is living with the child’s other parent,”.
- (5) In subsection (7)(b) (persons on whom conditions may be imposed by a section 8 order)—
- (a) for sub-paragraph (i) (person in whose favour the order is made) substitute—
- “(i) who is named in the order as a person with whom the child concerned is to live, spend time or otherwise have contact;”, and
- (b) in sub-paragraph (ii) omit “concerned”.
- 7 (1) Section 11A (contact activity directions) is amended as follows.
- (2) For subsections (1) to (3) (power to make directions) substitute—
- “(1) Subsection (2) applies in proceedings in which the court is considering whether to make provision about one or more of the matters mentioned in subsection (1A) by making—
- (a) a child arrangements order with respect to the child concerned, or
- (b) an order varying or discharging a child arrangements order with respect to the child concerned.
- (1A) The matters mentioned in this subsection are—
- (a) with whom a child is to live,
- (b) when a child is to live with any person,

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- (c) with whom a child is to spend time or otherwise have contact, and
 - (d) when a child is to spend time or otherwise have contact with any person.
- (2) The court may make an activity direction in connection with the provision that the court is considering whether to make.
- (2A) Subsection (2B) applies in proceedings in which subsection (2) does not apply and in which the court is considering—
- (a) whether a person has failed to comply with a provision of a child arrangements order, or
 - (b) what steps to take in consequence of a person’s failure to comply with a provision of a child arrangements order.
- (2B) The court may make an activity direction in connection with that provision of the child arrangements order.
- (3) An activity direction is a direction requiring an individual who is a party to the proceedings concerned to take part in an activity that would, in the court’s opinion, help to establish, maintain or improve the involvement in the life of the child concerned of—
- (a) that individual, or
 - (b) another individual who is a party to the proceedings.”
- (3) In subsection (5) (particular activities that may be required), in paragraph (a)(i) and (ii) and in paragraph (b), for “contact with a child” substitute “involvement in a child’s life”.
- (4) In subsection (6) (activities which may not be required) for “a contact” substitute “an”.
- (5) In subsection (7) (court may not make contact activity direction on same occasion as disposing of proceedings as they relate to contact)—
- (a) in paragraph (a) for “a contact activity direction” substitute “an activity direction under subsection (2)”, and
 - (b) in paragraph (b) for “contact with the child concerned” substitute “the matters mentioned in subsection (1A) in connection with which the activity direction is made”.
- (6) After subsection (7) insert—
- “(7A) A court may not on the same occasion—
- (a) make an activity direction under subsection (2B), and
 - (b) dispose finally of the proceedings as they relate to failure to comply with the provision in connection with which the activity direction is made.”
- (7) In subsection (8) (limitations on power to make direction under subsection (2)) for “Subsection (2)” substitute “Each of subsections (2) and (2B)”.
- (8) In subsection (9) (welfare of child is paramount consideration in considering whether to make contact activity direction) for “a contact” substitute “an”.
- (9) In the title omit “Contact”.

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- 8 (1) Section 11B (further provision about contact activity directions) is amended as follows.
- (2) In subsection (1) (court may not make contact activity direction in proceedings unless there is a dispute about contact)—
- (a) for “a contact activity direction in any proceedings” substitute “an activity direction under section 11A(2) in connection with any matter mentioned in section 11A(1A)”, and
 - (b) for “about contact” substitute “about that matter”.
- (3) In subsection (2) (contact activity direction may not require a child to take part in an activity unless child is a parent of the child in relation to whom court is considering contact)—
- (a) for “a contact” substitute “an”, and
 - (b) for “about contact” substitute “about a matter mentioned in section 11A(1A)”.
- (4) In subsection (3) (no contact activity direction to be made in connection with contact order which is excepted order)—
- (a) for “a contact activity” substitute “an activity”, and
 - (b) for “contact order”, in both places, substitute “child arrangements order”.
- (5) In subsection (4) (excepted orders) for “contact order” substitute “child arrangements order”.
- (6) In subsection (7) (no contact activity direction to be made unless individual concerned is habitually resident in England and Wales) for “a contact” substitute “an”.
- (7) In the title omit “Contact”.
- 9 (1) Section 11C (contact activity conditions) is amended as follows.
- (2) In subsection (1) (section applies if court makes certain orders) for paragraphs (a) and (b) substitute—
- “(a) a child arrangements order containing—
 - (i) provision for a child to live with different persons at different times,
 - (ii) provision regulating arrangements relating to with whom a child is to spend time or otherwise have contact, or
 - (iii) provision regulating arrangements relating to when a child is to spend time or otherwise have contact with any person;
or
 - (b) an order varying a child arrangements order so as to add, vary or omit provision of a kind mentioned in paragraph (a)(i), (ii) or (iii).”
- (3) In subsection (2) (court may impose contact activity condition)—
- (a) for “contact order”, in both places, substitute “child arrangements order”,
 - (b) for “(a “contact activity condition”)” substitute “(an “activity condition”)”, and
 - (c) for “promotes contact with the child concerned.” substitute “would, in the court’s opinion, help to establish, maintain or improve the involvement in the life of the child concerned of—

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- (a) that individual, or
 - (b) another individual who is a party to the proceedings.”
- (4) In subsection (3) (persons who may be required to take part in activities)—
- (a) in paragraph (a)—
 - (i) for “contact order” substitute “child arrangements order”, and
 - (ii) for “the person” substitute “a person”, and
 - (b) in paragraph (b) for “the person” substitute “a person”.
- (5) In subsection (5) (particular activities that may be required) for “a contact”, in both places, substitute “an”.
- (6) In the title omit “Contact”.
- 10 (1) Section 11D (further provision about contact activity conditions) is amended as follows.
- (2) In subsection (1) (contact activity condition may not be imposed on child unless child is a parent of the child concerned)—
- (a) for “contact order” substitute “child arrangements order”, and
 - (b) for “a contact activity” substitute “an activity”.
- (3) In subsection (2) (excepted order may not impose contact activity condition)—
- (a) for “contact order” substitute “child arrangements order”, and
 - (b) for “a contact activity” substitute “an activity”.
- (4) In subsection (3) (no contact activity condition to be imposed unless individual concerned is habitually resident in England and Wales)—
- (a) for “contact order” substitute “child arrangements order”, and
 - (b) for “a contact activity” substitute “an activity”.
- (5) In the title omit “Contact”.
- 11 (1) Section 11E (making of contact activity directions and conditions) is amended as follows.
- (2) In subsection (1) (court to satisfy itself of matters within subsections (2) to (4))—
- (a) for “a contact activity”, in both places, substitute “an activity”, and
 - (b) for “contact order” substitute “child arrangements order”.
- (3) In subsection (8) (meaning of “specified”) for “a contact”, in both places, substitute “an”.
- (4) In the title omit “Contact”.
- 12 (1) Section 11F (contact activity: financial assistance) is amended as follows.
- (2) For “a contact activity”, in each place, substitute “an activity”.
- (3) In subsections (2) and (4) (fee-assistance may be given in respect of persons required to take part in activity that promotes contact) for “promotes contact with” substitute “is expected to help to establish, maintain or improve the involvement of that or another individual in the life of”.
- (4) In the title omit “Contact”.
- 13 (1) Section 11G (contact activity: monitoring) is amended as follows.

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- (2) In subsection (1) for “a contact activity”, in each place, substitute “an activity”.
 - (3) In subsections (1) and (2) for “contact order”, in each place, substitute “child arrangements order”.
 - (4) In the title omit “Contact”.
- 14 (1) Section 11H (monitoring contact) is amended as follows.
- (2) In subsection (1) (section applies if court makes or varies a contact order) for paragraphs (a) and (b) substitute—
 - “(a) a child arrangements order containing provision of a kind mentioned in section 11C(1)(a)(i), (ii) or (iii), or
 - (b) an order varying a child arrangements order so as to add, vary or omit provision of any of those kinds.”
 - (3) In subsection (2)(a) (court may ask officer to monitor compliance) for “the contact order (or the contact order as varied);” substitute “each provision of any of those kinds that is contained in the child arrangements order (or in the child arrangements order as varied);”.
 - (4) In subsection (3) (individuals whose compliance may be monitored)—
 - (a) for “contact order”, in both places, substitute “child arrangements order”, and
 - (b) for paragraphs (a) and (b) (including the “or” at the end of paragraph (b)) substitute—
 - “(za) provides for the child concerned to live with different persons at different times and names the individual as one of those persons;
 - (a) imposes requirements on the individual with regard to the child concerned spending time or otherwise having contact with some other person;
 - (b) names the individual as a person with whom the child concerned is to spend time or otherwise have contact; or”.
 - (5) In subsection (4) (requests under subsection (2) not to relate to contact activity conditions)—
 - (a) for “contact order”, in both places, substitute “child arrangements order”,
 - (b) for “a contact activity” substitute “an activity”, and
 - (c) for “the contact activity” substitute “the activity”.
 - (6) In subsection (5) (when court may make request under subsection (2))—
 - (a) in paragraph (a) for “contact order”, in both places, substitute “child arrangements order”, and
 - (b) in paragraph (b) after “the child concerned” insert “or to the child’s living arrangements”.
 - (7) In subsection (10) (request not to be made under subsection (2) if contact order is an excepted order) for “contact” substitute “child arrangements”.
 - (8) In the title after “contact” insert “and shared residence”.
- 15 In section 11I (warning notices to be attached to contact orders and to orders varying contact orders)—

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- (a) for “contact”, in each place, substitute “child arrangements”, and
 - (b) in the title for “Contact” substitute “Child arrangements”.
- 16 (1) Section 11J (enforcement orders where contact order not complied with) is amended as follows.
- (2) In subsection (1) for “contact” substitute “child arrangements”.
 - (3) In subsection (2) for “the contact” substitute “a provision of the child arrangements”.
 - (4) In subsection (3) for “contact order” substitute “provision”.
 - (5) In subsection (5)—
 - (a) for “contact order”, in each place, substitute “child arrangements order”,
 - (b) in paragraphs (a) and (b) for “the person”, in each place, substitute “a person”, and
 - (c) in paragraph (c) for “a contact activity” substitute “an activity”.
 - (6) In subsection (6) for “contact” substitute “child arrangements”.
- 17 (1) Section 11K (enforcement orders: further provisions) is amended as follows.
- (2) In subsection (1) (enforcement order not to be made where notice not given under section 11I)—
 - (a) in the words before paragraph (a), for “contact order” substitute “provision of a child arrangements order”,
 - (b) in paragraph (a)—
 - (i) for “a contact order that” substitute “a provision of a child arrangements order where the order”, and
 - (ii) for “the contact” substitute “the child arrangements”, and
 - (c) in paragraph (b) for “contact” substitute “child arrangements”.
 - (3) In subsection (2) (enforcement order not to be made where person failed to comply with contact order when under 18) for “contact” substitute “provision of a child arrangements”.
 - (4) In subsection (3) (enforcement order not to be made where contact order is an excepted order) for “contact order that” substitute “provision of a child arrangements order where the child arrangements order”.
- 18 (1) Section 11L (making of enforcement orders) is amended as follows.
- (2) In subsection (1) (order must be necessary and its likely effect proportionate)—
 - (a) for “a contact” substitute “a provision of a child arrangements”,
 - (b) in paragraph (a) for “contact”, in each place, substitute “child arrangements”, and
 - (c) in paragraph (b) omit “of the contact order”.
 - (3) In subsection (3) for “contact” substitute “provision of a child arrangements”.
 - (4) In subsection (7) for “contact”, in both places, substitute “child arrangements”.
- 19 (1) Section 11O (compensation for financial loss arising from breach of contact order) is amended as follows.
- (2) In subsection (1) for “contact” substitute “child arrangements”.

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- (3) In subsection (2)(a) for “the contact” substitute “a provision of the child arrangements”.
- (4) In subsection (3) for “contact” substitute “particular provision of the child arrangements”.
- (5) In subsection (6)—
- (a) for “contact order”, in each place, substitute “child arrangements order”,
 - (b) in paragraphs (a) and (b) for “the person”, in each place, substitute “a person”, and
 - (c) in paragraph (c) for “a contact activity” substitute “an activity”.
- 20 (1) Section 11P (compensation orders under section 11O(2): further provision) is amended as follows.
- (2) In subsection (1) (compensation not to be ordered where notice not given under section 11I)—
- (a) in the words before paragraph (a), for “contact order” substitute “provision of a child arrangements order”,
 - (b) in paragraph (a)—
 - (i) for “a contact order that” substitute “a provision of a child arrangements order where the order”, and
 - (ii) for “the contact” substitute “the child arrangements”, and
 - (c) in paragraph (b) for “contact” substitute “child arrangements”.
- (3) In subsection (2) (compensation not to be ordered where person failed to comply with contact order when under 18) for “contact” substitute “provision of a child arrangements”.
- (4) In subsection (3) (compensation not to be ordered where contact order is an excepted order) for “contact order that” substitute “provision of a child arrangements order where the child arrangements order”.
- 21 (1) Section 12 (residence orders and parental responsibility) is amended as follows.
- (2) For subsections (1) and (1A) (court making residence order in favour of father without parental responsibility is also to make order giving parental responsibility to the father) substitute—
- “(1) Where—
- (a) the court makes a child arrangements order with respect to a child,
 - (b) the father of the child, or a woman who is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, is named in the order as a person with whom the child is to live, and
 - (c) the father, or the woman, would not otherwise have parental responsibility for the child,
- the court must also make an order under section 4 giving the father, or under section 4ZA giving the woman, that responsibility.
- (1A) Where—
- (a) the court makes a child arrangements order with respect to a child,

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- (b) the father of the child, or a woman who is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, is named in the order as a person with whom the child is to spend time or otherwise have contact but is not named in the order as a person with whom the child is to live, and
- (c) the father, or the woman, would not otherwise have parental responsibility for the child,

the court must decide whether it would be appropriate, in view of the provision made in the order with respect to the father or the woman, for him or her to have parental responsibility for the child and, if it decides that it would be appropriate for the father or the woman to have that responsibility, must also make an order under section 4 giving him, or under section 4ZA giving her, that responsibility.”

- (3) In subsection (2) (residence order in favour of person other than parent or guardian)

- (a) for “residence order in favour of any person who is not the” substitute “child arrangements order and a person who is not a”,
- (b) after “concerned” insert “is named in the order as a person with whom the child is to live,”, and
- (c) for “residence order remains in force” substitute “order remains in force so far as providing for the child to live with that person”.

- (4) After subsection (2) insert—

“(2A) Where the court makes a child arrangements order and—

- (a) a person who is not the parent or guardian of the child concerned is named in the order as a person with whom the child is to spend time or otherwise have contact, but
- (b) the person is not named in the order as a person with whom the child is to live,

the court may provide in the order for the person to have parental responsibility for the child while paragraphs (a) and (b) continue to be met in the person’s case.”

- (5) In subsection (3) (limits on parental responsibility given by subsection (2)) after “subsection (2)” insert “or (2A)”.

- (6) In subsection (4) (where order giving parental responsibility was made in compliance with subsection (1) or (1A), order not to be revoked while residence order remains in force)—

- (a) omit “or (1A)”,
- (b) for “in respect of the” substitute “in respect of a”, and
- (c) for “residence order concerned remains in force” substitute “child arrangements order concerned remains in force so far as providing for the child to live with that parent”.

- (7) In the title for “Residence” substitute “Child arrangements”.

- 22 (1) Section 13 (effect of residence order on change of child’s name or removal from jurisdiction) is amended as follows.

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- (2) In subsection (1) (new surname or removal from UK requires consent of all with parental responsibility or leave of court) for “residence order” substitute “child arrangements order to which subsection (4) applies”.
- (3) In subsection (2) (child may be removed from UK for up to 1 month by person in whose favour residence order is made) for “the person in whose favour the residence order is made” substitute “a person named in the child arrangements order as a person with whom the child is to live”.
- (4) In subsection (3) (court’s leave may be given in making a residence order) for “residence order with respect to a child” substitute “child arrangements order to which subsection (4) applies”.
- (5) After subsection (3) insert—
- “(4) This subsection applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child concerned is to live, and
- (b) when the child is to live with any person.”
- 23 Omit section 14 (enforcement of residence orders in magistrates’ courts).
- 24 In section 14A(5) (persons eligible to apply for special guardianship order), in paragraph (b) for the words after “individual” substitute “who is named in a child arrangements order as a person with whom the child is to live;”.
- 25 (1) Section 14B (making of special guardianship orders) is amended as follows.
- (2) In subsection (1) (matters for court to consider before making special guardianship order)—
- (a) in paragraph (a) for “contact order” substitute “child arrangements order containing contact provision”,
- (b) in paragraph (c)—
- (i) for “a contact order” substitute “provision contained in a child arrangements order”, and
- (ii) for “that contact order” substitute “that provision”, and
- (c) for paragraph (d) (whether contact activity direction should be discharged) substitute—
- “(d) where an activity direction has been made—
- (i) in proceedings for the making, variation or discharge of a child arrangements order with respect to the child, or
- (ii) in other proceedings that relate to such an order, that direction should be discharged.”
- (3) After subsection (1) insert—
- “(1A) In subsection (1) “contact provision” means provision which regulates arrangements relating to—
- (a) with whom a child is to spend time or otherwise have contact, or
- (b) when a child is to spend time or otherwise have contact with any person;

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but in paragraphs (a) and (b) a reference to spending time or otherwise having contact with a person is to doing that otherwise than as a result of living with the person.”

26 In section 14D(1) (persons eligible to apply for variation or discharge of special guardianship order), in paragraph (c) for the words after “individual” substitute “who is named in a child arrangements order as a person with whom the child is to live;”.

27 (1) Section 16 (family assistance orders) is amended as follows.

(2) In subsection (2)(b) (persons may be named in order if child lives with them or if contact order in their favour is in force) for the words after “living or” substitute “who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact”.

(3) In subsection (4A) (family assistance order may direct officer to give advice and assistance as to contact where contact order in force) for “a contact order” substitute “contact provision contained in a child arrangements order”.

(4) After subsection (4A) insert—

“(4B) In subsection (4A) “contact provision” means provision which regulates arrangements relating to—

- (a) with whom a child is to spend time or otherwise have contact, or
- (b) when a child is to spend time or otherwise have contact with any person.”

28 For section 20(9)(a) (if accommodation under section 20 provided for child with agreement of person in whose favour a residence order has been made, that agreement overrides objections of a person with parental responsibility) substitute—

“(a) who is named in a child arrangements order as a person with whom the child is to live;”.

29 In section 22C(3)(c) (where residence order in favour of a person was in force before care order was made, local authority may arrange for the child to live with that person)—

- (a) for “a residence order” substitute “a child arrangements order”, and
- (b) for “in whose favour the residence order was made” substitute “named in the child arrangements order as a person with whom C was to live”.

30 In section 23(4) (persons not referred to as local authority foster parents), in paragraph (c) for the words from “a residence order” to the end substitute “a child arrangements order in force with respect to the child immediately before the care order was made, a person named in the child arrangements order as a person with whom the child was to live.”

31 In section 34(1)(c) (child in care to be allowed reasonable contact with person in whose favour residence order was in force before care order was made)—

- (a) for “residence” substitute “child arrangements”, and
- (b) for “the person in whose favour the order was made” substitute “any person named in the child arrangements order as a person with whom the child was to live”.

32 (1) Section 38 (interim care or supervision orders) is amended as follows.

- (2) In subsection (3) (interim supervision order to be made in certain cases where residence order made in proceedings for a care or supervision order) for “residence order with respect to” substitute “child arrangements order with respect to the living arrangements of”.
- (3) After subsection (3) insert—
- “(3A) For the purposes of subsection (3), a child arrangements order is one made with respect to the living arrangements of the child concerned if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”
- 33 (1) Section 41 (representation of child: meaning of “specified proceedings”) is amended as follows.
- (2) In subsection (6)(e) and (h)(ii) (which refer to the making of a residence order) for “residence order with respect to” substitute “child arrangements order with respect to the living arrangements of”.
- (3) After subsection (6A) insert—
- “(6B) For the purposes of subsection (6), a child arrangements order is one made with respect to the living arrangements of a child if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”
- 34 In section 43(11) (persons to be given notice of application for child assessment order) for paragraph (d) substitute—
- “(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;”.
- 35 In section 44(13) (persons to be allowed reasonable contact with child where emergency protection order made) for paragraph (d) substitute—
- “(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;”.
- 36 In section 46(10) (persons to be allowed reasonable contact with child in police protection where that is in child’s best interests) for paragraph (d) substitute—
- “(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;”.
- 37 (1) Section 91 (effect and duration of orders etc.) is amended as follows.
- (2) In subsection (1) (making of residence order discharges care order) for “residence order with respect to” substitute “child arrangements order with respect to the living arrangements of”.
- (3) After subsection (1) insert—
- “(1A) For the purposes of subsection (1), a child arrangements order is one made with respect to the living arrangements of a child if the arrangements

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- regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
 - (b) when the child is to live with any person.”
- (4) In subsection (2A) (making of care order discharges contact activity direction)—
- (a) for “a contact” substitute “an”, and
 - (b) for “as regards contact with” substitute “with respect to”.
- (5) In subsection (10) (section 8 order other than residence order ceases to have effect when child turns 16 unless it is to have effect beyond that age by virtue of section 9(6)) omit “other than a residence order”.
- (6) After subsection (10) insert—
- “(10A) Subsection (10) does not apply to provision in a child arrangements order which regulates arrangements relating to—
- (a) with whom a child is to live, or
 - (b) when a child is to live with any person.”
- 38 (1) Section 105 (interpretation) is amended as follows.
- (2) In subsection (1) (definitions)—
- (a) before the definition of “adoption agency” insert—
 - ““activity condition” has the meaning given by section 11C;
 - “activity direction” has the meaning given by section 11A;”
 - (b) at the appropriate place insert—
 - “child arrangements order” has the meaning given by section 8(1);”
 - and
 - (c) omit the definition of “contact activity condition”, the definition of “contact activity direction”, the definition of “contact order” and the definition of “residence order”.
- (3) Omit subsection (3) (interpretation of certain references relating to residence orders).
- 39 (1) Schedule A1 (enforcement orders) is amended as follows.
- (2) In paragraphs 4(1), 5(1), 6(1), 7(1), 8(1) and 9(1) and (11)(a) for “contact” substitute “provision of a child arrangements”.
- (3) In paragraphs 4(2)(c), (4)(b) and (5), 6(3) and 9(6) and (10)(a) for “contact”, in each place, substitute “child arrangements”.
- (4) In paragraph 9(5) for “the contact” substitute “a provision of the child arrangements”.
- (5) In paragraph 9(10)(b) for “contact order and” substitute “provisions of the child arrangements order and with”.
- 40 (1) Schedule 1 (financial provision for children) is amended as follows.
- (2) In paragraph 1 (power of court to make orders on application of parent, guardian, special guardian or person in whose favour residence order in force)—
- (a) in sub-paragraph (1) for the words from “in whose favour” to “to a child” substitute “who is named in a child arrangements order as a person with whom a child is to live”,
 - (b) in sub-paragraph (6)—

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- (i) omit “a residence order or”, and
 - (ii) after “special guardianship order” insert “, or on making, varying or discharging provision in a child arrangements order with respect to the living arrangements of a child,” and
 - (c) after sub-paragraph (6) insert—
 - “(6A) For the purposes of sub-paragraph (6) provision in a child arrangements order is with respect to the living arrangements of a child if it regulates arrangements relating to—
 - (a) with whom the child is to live, or
 - (b) when the child is to live with any person.”
 - (3) In paragraph 8 (circumstances in which court may revoke financial relief order under other enactment)—
 - (a) in sub-paragraph (1) for “residence order” substitute “child arrangements order to which sub-paragraph (1A) applies”, and
 - (b) after sub-paragraph (1) insert—
 - “(1A) This sub-paragraph applies to a child arrangements order if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
 - (a) with whom the child concerned is to live, and
 - (b) when the child is to live with any person.”, and
 - (c) in sub-paragraph (2)(b)—
 - (i) after “any person” insert “who is named in a child arrangements order as a person with whom the child is to live or”, and
 - (ii) omit “a residence order or”.
 - (4) In paragraph 15 (local authority may contribute to maintenance of child living with person as a result of residence order) for “residence order” substitute “child arrangements order”.
- 41 In Schedule 14, omit paragraph 10 (certain orders made under legislation repealed by the Children Act 1989 to be enforceable under section 14 of that Act).

PART 2

AMENDMENTS IN OTHER LEGISLATION

Marriage Act 1949 (c. 76)

- 42 (1) Section 3 of the Marriage Act 1949 (marriage of persons under 18) is amended as follows.
- (2) In subsection (1A) (persons whose consent is required), in each of paragraphs (d) and (h), for “residence order” substitute “child arrangements order to which subsection (1C) applies”.
 - (3) In subsection (1B) (interpretation) for ““residence order”,” substitute ““child arrangements order”,”.
 - (4) After that subsection insert—

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- “(1C) A child arrangements order is one to which this subsection applies if the order regulates arrangements that consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
 - (b) when the child is to live with any person.”

Children and Young Persons Act 1969 (c. 54)

- 43 (1) Section 70 of the Children and Young Persons Act 1969 (interpretation) is amended as follows.
- (2) In subsection (1A) (“father” includes father not married at child’s birth to child’s mother if there is residence order in father’s favour) for paragraph (b) substitute—
- “(b) whose father is named in a child arrangements order as a person with whom the child or young person is to live,”.
- (3) In subsection (1B) for ““residence” substitute ““child arrangements””.

Local Authority Social Services Act 1970 (c. 42)

- 44 In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions), in the second column of the entry for the Children Act 1989, for “residence” substitute “child arrangements”.

Domicile and Matrimonial Proceedings Act 1973 (c. 45)

- 45 (1) Paragraph 11 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (restrictions on court’s powers while matrimonial proceedings are stayed) is amended as follows.
- (2) In sub-paragraph (4A)(b) (contact order in force when proceedings stayed) for “contact” substitute “child arrangements”.
- (3) In sub-paragraph (4B) (enforcement of the contact order while the proceedings are stayed) for “contact”, in both places, substitute “child arrangements”.

Mental Health Act 1983 (c. 20)

- 46 In section 28(1) of the Mental Health Act 1983 (“nearest relative” of child in respect of whom residence order is in force etc)—
- (a) in paragraph (b)—
 - (i) for “residence” substitute “person is named in a child arrangements”, and
 - (ii) for “is in force with respect to such a person” substitute “as a person with whom a person who has not attained the age of eighteen years is to live”, and
 - (b) in the words after paragraph (b), for “named in the residence order” substitute “so named (or the persons so named, where there is more than one)”.

Child Abduction Act 1984 (c. 37)

- 47 (1) Section 1 of the Child Abduction Act 1984 (offence of abduction of child by connected person without appropriate consent) is amended as follows.
- (2) In subsection (2)(d) (person in whose favour residence order is in force is connected person) for the words after “person” substitute “named in a child arrangements order as a person with whom the child is to live; or”.
- (3) In subsection (3)(a) (“appropriate consent” includes consent of every person listed) for sub-paragraph (iv) (person in whose favour residence order is in force) substitute—
- “(iv) any person named in a child arrangements order as a person with whom the child is to live;”.
- (4) In subsection (4)(a) (exception for short foreign trip organised by person in whose favour residence order made) for “in whose favour there is a residence order in force with respect to the child,” substitute “named in a child arrangements order as a person with whom the child is to live”.
- (5) For subsection (5A)(a)(i) (exception where consent unreasonably refused does not apply where there is residence order in favour of person refusing consent) substitute—
- “(i) named in a child arrangements order as a person with whom the child is to live;”.
- (6) In subsection (7)(a) (interpretation) for ““residence”” substitute ““child arrangements””.

Child Abduction and Custody Act 1985 (c. 60)

- 48 For paragraph 1(b) of Schedule 3 to the Child Abduction and Custody Act 1985 (orders mentioned in section 27(1) include a residence order) substitute—
- “(b) a child arrangements order (as defined by section 8 of the Act of 1989) if the arrangements regulated by the order consist of, or include, arrangements relating to either or both of the following—
- (i) with whom a child is to live, or
- (ii) when a child is to live with any person;”.

Family Law Act 1986 (c. 55)

- 49 The Family Law Act 1986 is amended as follows.
- 50 (1) Section 5 (which contains references to contact activity directions) is amended as follows.
- (2) In subsection (2A)—
- (a) for “a contact” substitute “an”, and
- (b) for “the contact” substitute “the”.
- (3) In subsection (3B) for “a contact” substitute “an”.
- 51 (1) Section 6 (which includes provision for a family assistance order to cease to have effect where a related residence order is superseded by an order made in Scotland or Northern Ireland) is amended as follows.

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(2) After subsection (5) insert—

“(5A) Subsection (7) below applies where a Part I order which is a child arrangements order (within the meaning of section 8(1) of the Children Act 1989) ceases by virtue of subsection (1) above to name a person as someone with whom a child is to live.”

(3) In subsection (6) (circumstances in which subsection (7) applies)—

- (a) after “Subsection (7) below” insert “also”, and
- (b) omit paragraph (a) (residence order ceasing to have effect by virtue of subsection (1)).

Child Support Act 1991 (c. 48)

52 For section 3(4)(c) of the Child Support Act 1991 (persons with residence orders in their favour may not be prescribed as persons who are not “persons with care”) substitute—

“(c) persons named, in a child arrangements order under section 8 of the Children Act 1989, as persons with whom a child is to live;”.

Armed Forces Act 1991 (c. 62)

53 The Armed Forces Act 1991 is amended as follows.

54 In section 17(4) (persons who may apply for assessment order) after paragraph (d) insert—

“(da) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

55 In section 18(7) (persons who may apply to vary or discharge an assessment order) after paragraph (d) insert—

“(da) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

56 In section 20(8) (persons who are to be allowed reasonable contact with a child subject to a protection order) after paragraph (c) insert—

“(ca) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

57 In section 22A(7) (persons who are to be allowed reasonable contact with a child in service police protection) after paragraph (c) insert—

“(ca) any person who is named in a child arrangements order as a person with whom the child is to live, spend time or otherwise have contact;”.

58 (1) Section 23(1) (interpretation of Part 3) is amended as follows.

(2) After the definition of “child” insert—

““child arrangements order” has the meaning given by section 8(1) of the Children Act 1989;”.

(3) In the definition of “contact order”—

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- (a) omit “section 8(1) of the Children Act 1989 or”, and
- (b) omit “as the case may be”.

Adoption and Children Act 2002 (c. 38)

- 59 The Adoption and Children Act 2002 is amended as follows.
- 60 (1) Section 26 (placement of children by adoption agency for adoption: contact) is amended as follows.
- (2) In subsection (1) (provision for contact under the 1989 Act ceases to have effect and any contact activity direction is discharged) for the words from “any provision for contact” to the end substitute “—
- (a) any contact provision in a child arrangements order under section 8 of the 1989 Act ceases to have effect,
 - (b) any order under section 34 of that Act (parental etc contact with children in care) ceases to have effect, and
 - (c) any activity direction made in proceedings for the making, variation or discharge of a child arrangements order with respect to the child, or made in other proceedings that relate to such an order, is discharged.”
- (3) In subsection (2)(a) (no application may be made for provision for contact under the 1989 Act) for “any provision for contact under that Act, but” substitute “—
- (i) a child arrangements order under section 8 of the 1989 Act containing contact provision, or
 - (ii) an order under section 34 of that Act, but”.
- (4) In subsection (3)(c) (application for contact may be made by person in whose favour provision for contact was made)—
- (a) omit “for contact under the 1989 Act”, and
 - (b) for “(1)” substitute “(1)(a) or an order which ceased to have effect by virtue of subsection (1)(b)”.
- (5) In subsection (3)(d) (application for contact may be made by person in whose favour residence order was made)—
- (a) for “residence” substitute “child arrangements”, and
 - (b) for “the person in whose favour the order was made” substitute “any person named in the order as a person with whom the child was to live”.
- (6) In subsection (5) (application for contact order that is to be heard together with application for adoption order) for “contact order under section 8 of the 1989 Act” substitute “child arrangements order under section 8 of the 1989 Act containing only contact provision”.
- (7) For subsection (6) (interpretation) substitute—
- “(5A) In this section “contact provision” means provision which regulates arrangements relating to—
- (a) with whom a child is to spend time or otherwise have contact, or
 - (b) when a child is to spend time or otherwise have contact with any person;

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but in paragraphs (a) and (b) a reference to spending time or otherwise having contact with a person is to doing that otherwise than as a result of living with the person.

(6) In this section “activity direction” has the meaning given by section 11A of the 1989 Act.”

- 61 (1) Section 28 (further consequences of placement) is amended as follows.
- (2) In subsection (1)(a) (restrictions on applying for residence order) for “residence order” substitute “child arrangements order regulating the child’s living arrangements”.
- (3) After subsection (4) insert—
- “(5) For the purposes of subsection (1)(a), a child arrangements order regulates a child’s living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”
- 62 (1) Section 29 (further consequences of placement orders) is amended as follows.
- (2) In subsection (3)(a) (residence order etc may not be made if placement order is in force) omit “, residence order”.
- (3) In subsection (4) (residence orders to which subsection (3) does not apply)—
- (a) for “Subsection (3)(a) does not apply in respect of a residence order if—” substitute “Where a placement order is in force, a child arrangements order may be made with respect to the child’s living arrangements only if—”, and
- (b) in paragraph (b), for “residence” substitute “child arrangements”.
- (4) After subsection (4) insert—
- “(4A) For the purposes of subsection (4), a child arrangements order is one made with respect to a child’s living arrangements if the arrangements regulated by the order consist of, or include, arrangements which relate to either or both of the following—
- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”
- 63 (1) Section 32 (recovery of child from placement) is amended as follows.
- (2) In subsection (5) (effect of undecided application for residence order etc on duty to return child) for paragraphs (a) and (b) substitute—
- “(a) before the notice was given, an application—
- (i) for an adoption order (including a Scottish or Northern Irish adoption order),
- (ii) for a special guardianship order,
- (iii) for a child arrangements order to which subsection (6) applies, or
- (iv) for permission to apply for an order within sub-paragraph (ii) or (iii),
- was made in respect of the child, and

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- (b) the application (and, in a case where permission is given on an application to apply for an order within paragraph (a)(ii) or (iii), the application for the order) has not been disposed of.”

(3) After that subsection insert—

“(6) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom a child is to live, and
- (b) when the child is to live with any person.”

64 (1) Section 35 (return of placed child in certain cases) is amended as follows.

(2) In subsection (5) (effect of undecided application for residence order etc on duty to return child) for paragraphs (b) and (c) substitute—

“(b) before the notice was given, an application—

- (i) for an adoption order (including a Scottish or Northern Irish adoption order),
- (ii) for a special guardianship order,
- (iii) for a child arrangements order to which subsection (5A) applies, or
- (iv) for permission to apply for an order within sub-paragraph (ii) or (iii),

was made in respect of the child, and

- (c) the application (and, in a case where permission is given on an application to apply for an order within paragraph (b)(ii) or (iii), the application for the order) has not been disposed of.”

(3) After that subsection insert—

“(5A) A child arrangements order is one to which this subsection applies if it is an order regulating arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom a child is to live, and
- (b) when a child is to live with any person.”

65 (1) Schedule 6 (glossary) is amended as follows.

(2) At the appropriate place insert—

“child arrangements order | section 8(1) of the 1989 Act”

(3) Omit the entry for “residence order”.

Civil Partnership Act 2004 (c. 33)

66 (1) Schedule 2 to the Civil Partnership Act 2004 (civil partnerships of persons under 18) is amended as follows.

(2) In paragraph 1 (persons whose consent is required), in each of items 4 and 8 in the first column of the table, for “residence order” substitute “child arrangements order to which paragraph 2A applies”.

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(3) In paragraph 2 (interpretation of paragraph 1) for ““residence order”,” substitute ““child arrangements order”,”.

(4) In Part 1 (appropriate persons) after paragraph 2 insert—

“2A A child arrangements order (as defined by section 8 of the Children Act 1989) is one to which this paragraph applies if the order regulates arrangements that consist of, or include, arrangements which relate to either or both of the following—

- (a) with whom the child is to live, and
- (b) when the child is to live with any person.”

Income Tax (Trading and Other Income) Act 2005 (c. 5)

67 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.

68 (1) Section 744 (payments to adopters, etc: England and Wales) is amended as follows.

(2) In subsection (1)(g) (no income tax on payments under section 17 of the Children Act 1989 made to a person as a result of a residence order being in force in the person’s favour) for “in whose favour a residence order with respect to a child is in force” substitute “named in a child arrangements order as a person with whom a child is to live”.

(3) In subsection (1)(h) (no income tax on payments under paragraph 15 of Schedule 1 to the 1989 Act made to person with whom child is living, or is to live, as a result of a residence order) for “in whose favour residence order is in force” substitute “with whom child is living, or is to live, as a result of a child arrangements order”.

(4) In subsection (1)(i) (no income tax on other payments under maintenance agreements or under orders under Schedule 1 to the 1989 Act) for “in whose favour a residence order with respect to the child is in force” substitute “named in a child arrangements order as a person with whom the child is to live”.

(5) For subsection (2)(c) (payment not exempt from tax if made to a person in whose favour a residence order is in force where that order is also in favour of an excluded relative) substitute—

“(c) it is made to a person (“P”) named in a child arrangements order as a person with whom the child is to live and an excluded relative who lives in the same household as P is also named in that order as a person with whom the child is to live.”

(6) In subsection (3) (interpretation) for ““residence”” substitute ““child arrangements””.

69 In section 806(5) (persons who are not foster carers for purposes of Chapter 2 of Part 7) after paragraph (b) insert—

“(ba) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the care order was made, a person named in the child arrangements order as a person with whom the child was to live,

(bb) (in Scotland) where the child is in care and there was a child arrangements order in force with respect to the child immediately before the child was placed in care, a person named in the child arrangements order as a person with whom the child was to live, spend time or otherwise have contact,”.

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Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

- 70 In paragraph 13(1)(c) of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services: orders mentioned in section 8(1) of the Children Act 1989) for “residence, contact” substitute “child arrangements orders”.