

2014 No. 1042

FAMILY PROCEEDINGS

**The Children and Families Act 2014 (Transitional Provisions)
Order 2014**

Made - - - - *15th April 2014*

Coming into force - - *22nd April 2014*

The Secretary of State, in exercise of the powers conferred by section 137(1) of the Children and Families Act 2014(a), makes the following Order:

Citation and Interpretation

1. This Order may be cited as the Children and Families Act 2014 (Transitional Provisions) Order 2014 and comes into force on 22nd April 2014.

2.—(1) In this Order—

“the 1989 Act” means the Children Act 1989;

“the 2014 Act” means the Children and Families Act 2014;

“a care order” has the same meaning as in the 1989 Act;

“a child arrangements order” means a child arrangements order as defined by section 8(1) of the 1989 Act;

“the commencement date” means the 22nd April 2014;

“a contact order” means a contact order as defined by section 8(1) of the 1989 Act prior to section 12 of the 2014 Act coming into force;

“a court officer” means a member of the court staff;

“a residence order” means a residence order as defined by section 8(1) of the 1989 Act prior to section 12 of the 2014 Act coming into force;

“a section 31A plan” means a care plan prepared in accordance with section 31A of the 1989 Act;

“a supervision order” has the same meaning as in the 1989 Act.

(2) For the purposes of this Order, proceedings are issued on the date entered on the application form by the court officer.

Post-adoption contact orders

3. Section 51A of the Adoption and Children Act 2002(a), as inserted by section 9(1) of the 2014 Act, does not apply to proceedings arising out of an application for a contact order which was commenced but not disposed of prior to the commencement date.

4. The amendments made by section 9(7) of the 2014 Act do not apply in respect of family proceedings(b) that were commenced but not disposed of prior to the commencement date.

Family mediation information and assessment meetings

5. Where a relevant family application(c) is received but not issued by the court prior to the commencement date, that application shall be issued on or after the commencement date as if section 10 of the 2014 Act had not come into force on the commencement date.

Child arrangements orders

6.—(1) This article is subject to article 7.

(2) Where, before the commencement date, there was or had been in force a contact order, then, on and after the commencement date, that contact order shall be deemed to be a child arrangements order which regulates or regulated arrangements that relate to either or both of the following—

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

(3) Where, before the commencement date, there was or had been in force a residence order, then, on and after the commencement date, that residence order shall be deemed to be a child arrangements order which regulates or regulated arrangements that 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.

(4) Where, before the commencement date, there was an application in progress for making, varying or discharging a contact order or a residence order, then, on and after the commencement date, that application shall be deemed to be an application for making, varying or discharging a child arrangements order.

(5) Nothing in this article shall be construed so as to revive a residence order or contact order that has been discharged.

7.—(1) In relation to a child arrangements order that contains provisions that were in the order prior to the commencement date—

- (a) the court may not make an enforcement order under section 11J, or an order requiring financial compensation to be paid under section 11O of the 1989 Act, in relation to any such provisions which do not regulate contact arrangements;
- (b) to comply with section 11L(1) of the 1989 Act in relation to those provisions, the court does not need to be satisfied that the enforcement order is necessary to secure the person's compliance with those provisions which do not regulate contact arrangements.

(2) For the purposes of this article, “contact arrangements” are arrangements relating to either or both of the following—

- (a) with whom a child is to spend time or otherwise have contact, and

(a) 2002 c.38.

(b) For the definition of “family proceedings”, see section 8(3) of the Children Act 1989.

(c) For the definition of “relevant family application”, see section 10(3) of the Children and Families Act 2014.

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

Care, supervision and other family proceedings: time limits and timetables

8. Where proceedings to which section 32 of the 1989 Act applies—

- (a) were commenced but not disposed of prior to the commencement date;
- (b) were subject to a timetable drawn up by the court under section 32(1) of the 1989 Act prior to the commencement date; and
- (c) the timetable provides for the proceedings to conclude on a date after the conclusion of a period of twenty-six weeks beginning with the day on which the application was issued,

section 32(1)(a)(ii) shall be read as if the reference to the period of within twenty-six weeks beginning with the day on which the application was issued, is a reference to the period ending with the date specified in the timetable (referred to in paragraph (b)), as the date for the disposal of the application.

Interim Orders

9.—(1) Where, before the commencement date, an interim care order or an interim supervision order has been made under section 38(1) of the 1989 Act and that interim order does not specify a date on which it shall cease to have effect, it shall cease to have effect on whichever of the following events first occurs—

- (a) the expiry of the period of eight weeks beginning with the date on which the order was made;
- (b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, at the expiry of the relevant period.

(2) For the purposes of this article, “the relevant period” means—

- (a) the period of four weeks beginning with the date on which the order in question was made; or
- (b) the period of eight weeks beginning with the date on which the first order was made, if that period ends later than the period mentioned in paragraph (2)(a).

Care Plans

10.—(1) Section 31(3A) and (3B) of the 1989 Act, as inserted by section 15(1) of the 2014 Act, only applies in respect of applications for care or supervision orders issued on or after the commencement date.

(2) Where a court is exercising its power under section 31(1) in relation to an application for a care or supervision order made before the commencement date, no care order may be made with respect to a child until the court has considered a section 31A plan.

Repeal of restrictions on divorce and dissolution etc where there are children

11. The repeals effected by section 17 of the 2014 Act only apply in respect of proceedings issued on or after the commencement date.

15th April 2014

Edward Timpson
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional provisions in connection with the coming into force of provisions in Part 1 and Part 2 of the Children and Families Act 2014 (“the 2014 Act”), which were brought into force by S.I.s 2014/793 and 2014/889 on 22nd April 2014.

Article 3 provides that the court’s ability to make an order for post adoption contact as provided for in section 51A of the Adoption and Children Act 2002 (“the 2002 Act”) will not apply in relation to an application for a post adoption contact order under section 8 of the Children Act 1989 (“the 1989 Act”) commenced but not disposed of prior to 22nd April 2014. Section 51A of the 2002 Act will only be disapplied in relation to proceedings that have arisen out of an application for a contact order as defined by section 8 of the 1989 Act.

Article 4 provides that section 9(7) of the 2014 Act which amends section 9(5)(a) of the 1989 Act will not apply in relation to family proceedings which commenced prior to 22nd April 2014 but have not been disposed of before that date.

Article 5 sets out transitional arrangements relating to the requirement to attend a family mediation information and assessment meeting contained in section 10 of the 2014 Act.

Article 6 deems contact orders and residence orders that were made under section 8 of the 1989 Act prior to 22nd April 2014, as child arrangements orders. It also deems applications for contact orders and residence orders that were made before the 22nd April but are still in progress on 22nd April 2014, as applications for child arrangements orders.

Article 7 makes clear that where a person has failed to comply with provision about contact that was contained in a contact order made before the 22nd April 2014, notwithstanding that the contact order will be deemed to be a child arrangements order from 22nd April onwards, sections 11J, 11L and 11O of the 1989 Act (which relate to enforcement and compensation), will only apply in respect of the failure to comply with that contact provision. Article 7 does not affect the operation of these sections in relation to provision contained in a child arrangements order (that was previously a contact order) that were added to, or varied, by the court on or after 22nd April.

Article 8 provides transitional provision in relation to the timetable drawn up by virtue of section 32(1) of the 1989 Act for proceedings under Part 4 of that Act.

Article 9 provides a time period by which an interim care or supervision order made before the 22nd April 2014, that does not specify a date by which it is to expire, will cease to have effect.

Article 10 makes transitional arrangements in relation to the duty of the court under section 31 of the 1989 Act to consider a care plan made under section 31A of that Act, before it makes a care order.

Article 11 makes transitional arrangements in relation to section 17 of the 2014 Act.

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