



Children Act 1989

1989 CHAPTER 41

PART XII

MISCELLANEOUS AND GENERAL

Jurisdiction and procedure etc.

92 Jurisdiction of courts.

^{F1}(1)

^{F1}(2)

^{F1}(3)

^{F1}(4)

^{F1}(5)

^{F2}(6)

(7) For the purposes of this Act “the court” [^{F3}the High Court or the family court].

(8) Subsection (7) is subject to ^{F4}... any express provision as to the jurisdiction of any court made by any other provision of this Act.

^{F5}(9)

^{F5}(10)

^{F5}(10A)

(11) Part II of Schedule 11 makes amendments consequential on this section.

Status: Point in time view as at 06/04/2016.

Changes to legislation: Children Act 1989, Cross Heading: Jurisdiction and procedure etc. is up to date with all changes known to be in force on or before 06 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)

Textual Amendments

- F1** S. 92(1)-(5) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 109\(2\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F2** S. 92(6) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 109\(3\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** Words in s. 92(7) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 109\(4\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F4** Words in s. 92(8) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 109\(5\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** S. 92(9)-(10A) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 109\(6\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Modifications etc. (not altering text)

- C1** S. 92(7)–(10) applied by [Human Fertilisation and Embryology Act 1990 \(c. 37, SIF 83:1\)](#), [ss. 30\(8\)\(9\), 39\(3\), 43\(2\)](#)

Commencement Information

- I1** S. 92 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

93 Rules of court.

- (1) An authority having power to make rules of court may make such provision for giving effect to—
- (a) this Act;
 - (b) the provisions of any statutory instrument made under this Act; or
 - (c) any amendment made by this Act in any other enactment,
- as appears to that authority to be necessary or expedient.
- (2) The rules may, in particular, make provision—
- (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);
 - (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
 - ^{F6}(bb) for children to be separately represented in relevant proceedings,]
 - (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
 - ^{F7}(d)
 - (e) with respect to preliminary hearings;
 - ^{F8}(f)
 - ^{F8}(g)

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(h) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings;

^{F9}(i)

^{F9}(j)

(3) In subsection (2)—

“notice of proceedings” means a summons or such other notice of proceedings as is required; and “given”, in relation to a summons, means “served”;

“prescribed” means prescribed by the rules; and

“relevant proceedings” means any application made, or proceedings brought, under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) and any part of such proceedings.

(4) This section and any other power in this Act to make rules of court are not to be taken as in any way limiting any other power of the authority in question to make rules of court.

(5) When making any rules under this section an authority shall be subject to the same requirements as to consultation (if any) as apply when the authority makes rules under its general rule making power.

Textual Amendments

F6 S. 93(2)(bb) inserted (7.12.2004) by 2002 c. 38, ss. 122(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(I)**

F7 S. 93(2)(d) omitted (22.4.2014) by virtue of **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 110**; S.I. 2014/954, **art. 2(e)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F8 S. 93(2)(f)(g) omitted (22.4.2014) by virtue of **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 110**; S.I. 2014/954, **art. 2(e)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F9 S. 93(2)(i)(j) omitted (22.4.2014) by virtue of **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 110**; S.I. 2014/954, **art. 2(e)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

C2 S. 93 applied by 2014 anaw 4, s. 125B(2) (as inserted (E.W.) (6.4.2016) by **The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413)**, regs. 2(1), **308**)

Commencement Information

I2 S. 93 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

^{F10}**94 Appeals.**

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Textual Amendments

F10 S. 94 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 111](#); [S.I. 2014/954](#), art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

95 Attendance of child at hearing under Part IV or V.

- (1) In any proceedings in which a court is hearing an application for an order under Part IV or V, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.
- (2) The power conferred by subsection (1) shall be exercised in accordance with rules of court.
- (3) Subsections (4) to (6) apply where—
 - (a) an order under subsection (1) has not been complied with; or
 - (b) the court has reasonable cause to believe that it will not be complied with.
- (4) The court may make an order authorising a constable, or such person as may be specified in the order—
 - (a) to take charge of the child and to bring him to the court; and
 - (b) to enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises.
- (5) The court may order any person who is in a position to do so to bring the child to the court.
- (6) Where the court has reason to believe that a person has information about the whereabouts of the child it may order him to disclose it to the court.

Commencement Information

I3 S. 95 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

96 Evidence given by, or with respect to, children.

- (1) Subsection (2) applies where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath.
- (2) The child's evidence may be heard by the court if, in its opinion—
 - (a) he understands that it is his duty to speak the truth; and
 - (b) he has sufficient understanding to justify his evidence being heard.
- (3) The Lord Chancellor may [^{F11}, with the concurrence of the Lord Chief Justice,] by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.
- (4) An order under subsection (3) may only be made with respect to—
 - (a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and
 - (b) evidence in connection with the upbringing, maintenance or welfare of a child.

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- (5) An order under subsection (3)—
- (a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;
 - (b) may make different provision for different purposes and in relation to different descriptions of court; and
 - (c) may make such amendments and repeals in any enactment relating to evidence (other than in this Act) as the Lord Chancellor considers necessary or expedient in consequence of the provision made by the order.
- (6) Subsection (5)(b) is without prejudice to section 104(4).
- (7) In this section—
- [^{F12} “ civil proceedings ” means civil proceedings, before any tribunal, in relation to which the strict rules of evidence apply, whether as a matter of law or by agreement of the parties, and references to “ the court ” shall be construed accordingly;]
- “prescribed” means prescribed by an order under subsection (3).

Textual Amendments

- F11** Words in s. 96(3) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15\(1\), Sch. 4 para. 207](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 11\(r\)](#)
- F12** Definition in s. 96(7) substituted (31.1.1997) by [1995 c. 38, s. 15\(1\), Sch. 1 para.16](#)(with ss. 1(3), 6(4) (5), 14); [S.I. 1996/3217, art.2](#)

Commencement Information

- I4** S. 96 wholly in force at 14.10.1991; s. 96(3)-(7) in force at 16.11.1989 see s. 108(2); s. 96(1)(2) in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

97 Privacy for children involved in certain proceedings.

- ^{F13}(1)
- (2) No person shall publish [^{F14}to the public at large or any section of the public] any material which is intended, or likely, to identify—
- (a) any child as being involved in any proceedings before [^{F15}the High Court][^{F16}or the family court] in which any power under this Act [^{F17}or the Adoption and Children Act 2002] may be exercised by the court with respect to that or any other child; or
 - (b) an address or school as being that of a child involved in any such proceedings.
- (3) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.
- (4) The court or the [^{F18}Lord Chancellor] may, if satisfied that the welfare of the child requires it [^{F19}and, in the case of the Lord Chancellor, if the Lord Chief Justice agrees] , by order dispense with the requirements of subsection (2) to such extent as may be specified in the order.
- (5) For the purposes of this section—

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“publish” includes—

- (a) [^{F20}include in a programme service (within the meaning of the Broadcasting Act 1990);]
 - (b) cause to be published; and
- “material” includes any picture or representation.

- (6) Any person who contravenes this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

[^{F21}(6A) It is not a contravention of this section to—

- (a) enter material in the Adoption and Children Act Register (established under section 125 of the Adoption and Children Act 2002), or
- (b) permit persons to search and inspect that register pursuant to regulations made under section 128A of that Act.]

^{F22}(7)

^{F22}(8)

[^{F23}(9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (4).]

Textual Amendments

- F13** S. 97(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 75(a)**; [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F14** Words in s. 97(2) inserted (12.4.2005) by [Children Act 2004 \(c. 31\)](#), s. 62(1); [S.I. 2005/847](#), art. 2
- F15** Words in s. 97(2) inserted (27.9.1999) by [1999 c. 22](#), ss. 72, 108(3) (with s. 107, Sch. 14 para. 7(2))
- F16** Words in s. 97(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 75(b)**; [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F17** Words in s. 97(1)(2) inserted (30.12.2005) by [2002 c. 38](#), ss. 101(3), 148 (with Sch. 4 paras. 6-8); [S.I. 2005/2213](#), art. 2(h)
- F18** Words in s. 97(4) substituted (1.4.1992) by [S.I. 1992/709](#), art. 3(2), **Sch. 2** (with art. 5(2)).
- F19** Words in s. 97(4) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15(1), **Sch. 4 para. 208(2)**; [S.I. 2006/1014](#), art. 2(a), Sch. 1 para. 11(r)
- F20** Words in s. 97(5) substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), **Sch. 20 para. 53**
- F21** S. 97(6A) inserted (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. 7(7), 139(6); [S.I. 2014/889](#), art. 5(b)
- F22** S. 97(7)(8) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 75(a)**; [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F23** S. 97(9) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15(1), **Sch. 4 para. 208(3)**; [S.I. 2006/1014](#), art. 2(a), Sch. 1 para. 11(r)

Modifications etc. (not altering text)

- C3** S. 97 applied by [2014 anaw 4](#), s. 125C (as inserted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), 308)
- C4** S. 97(2) excluded (27.9.1999) by [1999 c. 22](#), ss. 105, 108(1), **Sch. 14 Pt. IV para. 18** (with s. 107, Sch. 14 para. 7(2))

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C5 S. 97(4): functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 3(1), **Sch. 2** (with art. 5(2)).

Commencement Information

I5 S. 97 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

98 Self-incrimination.

- (1) In any proceedings in which a court is hearing an application for an order under Part IV or V, no person shall be excused from—
 - (a) giving evidence on any matter; or
 - (b) answering any question put to him in the course of his giving evidence, on the ground that doing so might incriminate him or his spouse [^{F24}or civil partner] of an offence.
- (2) A statement or admission made in such proceedings shall not be admissible in evidence against the person making it or his spouse [^{F24}or civil partner] in proceedings for an offence other than perjury.

Textual Amendments

F24 Words in s. 98(1)(2) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 261(1), **Sch. 27 para. 132**; S.I. 2005/3175, **art. 2(2)** (subject to arts. 2(3)-(5))

Commencement Information

I6 S. 98 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

^{F25}**99** .

- (1)
- ^{F25}(2)
- ^{F25}(3)
- ^{F25}(4)
- ^{F25}(5)

Textual Amendments

F25 S. 99(1)(2)(4)(5) repealed (1.4.2000) and s. 99(3) repealed (2.4.2001) by **1999 c. 22**, ss. 106, 108(1), **Sch. 15 Pt. I** (with 107, **Sch. 14 para. 7(2)**, 36(9)); S.I. 2000/774, art. 2(c)(i), **Sch.** (with art. 5); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Schs. 1, 2)

100 Restrictions on use of wardship jurisdiction.

- (1) Section 7 of the ^{M1}Family Law Reform Act 1969 (which gives the High Court power to place a ward of court in the care, or under the supervision, of a local authority) shall cease to have effect.

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- (2) No court shall exercise the High Court’s inherent jurisdiction with respect to children—
- (a) so as to require a child to be placed in the care, or put under the supervision, of a local authority;
 - (b) so as to require a child to be accommodated by or on behalf of a local authority;
 - (c) so as to make a child who is the subject of a care order a ward of court; or
 - (d) for the purpose of conferring on any local authority power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.
- (3) No application for any exercise of the court’s inherent jurisdiction with respect to children may be made by a local authority unless the authority have obtained the leave of the court.
- (4) The court may only grant leave if it is satisfied that—
- (a) the result which the authority wish to achieve could not be achieved through the making of any order of a kind to which subsection (5) applies; and
 - (b) there is reasonable cause to believe that if the court’s inherent jurisdiction is not exercised with respect to the child he is likely to suffer significant harm.
- (5) This subsection applies to any order—
- (a) made otherwise than in the exercise of the court’s inherent jurisdiction; and
 - (b) which the local authority is entitled to apply for (assuming, in the case of any application which may only be made with leave, that leave is granted).

Commencement Information

I7 S. 100 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Marginal Citations

M1 1969 c. 46.

101 Effect of orders as between England and Wales and Northern Ireland, the Channel Islands or the Isle of Man.

- (1) The Secretary of State may make regulations providing—
- (a) for prescribed orders which—
 - (i) are made by a court in Northern Ireland; and
 - (ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision of this Act, to have effect in prescribed circumstances, for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act;
 - (b) for prescribed orders which—
 - (i) are made by a court in England and Wales; and
 - (ii) appear to the Secretary of State to correspond in their effect to orders which may be made under any provision in force in Northern Ireland, to have effect in prescribed circumstances, for prescribed purposes of the law of Northern Ireland, as if they were orders of a prescribed kind made in Northern Ireland.

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- (2) Regulations under subsection (1) may provide for the order concerned to cease to have effect for the purposes of the law of Northern Ireland, or (as the case may be) the law of England and Wales, if prescribed conditions are satisfied.
- (3) The Secretary of State may make regulations providing for prescribed orders which—
- (a) are made by a court in the Isle of Man or in any of the Channel Islands; and
 - (b) appear to the Secretary of State to correspond in their effect to orders which may be made under this Act,
- to have effect in prescribed circumstances for prescribed purposes of this Act, as if they were orders of a prescribed kind made under this Act.
- (4) Where a child who is in the care of a local authority is lawfully taken to live in Northern Ireland, the Isle of Man or any of the Channel Islands, the care order in question shall cease to have effect if the conditions prescribed in regulations made by the Secretary of State are satisfied.
- (5) Any regulations made under this section may—
- (a) make such consequential amendments (including repeals) in—
 - (i) section 25 of the ^{M2}Children and Young Persons Act 1969 (transfers between England and Wales and Northern Ireland); or
 - (ii) section 26 (transfers between England and Wales and Channel Islands or Isle of Man) of that Act,as the Secretary of State considers necessary or expedient; and
 - (b) modify any provision of this Act, in its application (by virtue of the regulations) in relation to an order made otherwise than in England and Wales.

Extent Information

E1 S. 101 extends to England and Wales only except for s. 101(1)(b)(2)(5)(a)(i) which also extend to Northern Ireland. See s. 108(11)(12)

Commencement Information

I8 S. 101 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

Marginal Citations

M2 1969 c. 54.

Status:

Point in time view as at 06/04/2016.

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