



Children Act 1989

1989 CHAPTER 41

PART XII

MISCELLANEOUS AND GENERAL

Notification of children accommodated in certain establishments

85 Children accommodated by health authorities and local education authorities

- (1) Where a child is provided with accommodation by any health authority or local education authority (“the accommodating authority”)—
 - (a) for a consecutive period of at least three months; or
 - (b) with the intention, on the part of that authority, of accommodating him for such a period,the accommodating authority shall notify the responsible authority.
- (2) Where subsection (1) applies with respect to a child, the accommodating authority shall also notify the responsible authority when they cease to accommodate the child.
- (3) In this section “the responsible authority” means—
 - (a) the local authority appearing to the accommodating authority to be the authority within whose area the child was ordinarily resident immediately before being accommodated; or
 - (b) where it appears to the accommodating authority that a child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.
- (4) Where a local authority have been notified under this section, they shall—
 - (a) take such steps as are reasonably practicable to enable them to determine whether the child’s welfare is adequately safeguarded and promoted while he is accommodated by the accommodating authority; and
 - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

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86 Children accommodated in residential care, nursing or mental nursing homes

- (1) Where a child is provided with accommodation in any residential care home, nursing home or mental nursing home—
 - (a) for a consecutive period of at least three months; or
 - (b) with the intention, on the part of the person taking the decision to accommodate him, of accommodating him for such period,the person carrying on the home shall notify the local authority within whose area the home is carried on.
- (2) Where subsection (1) applies with respect to a child, the person carrying on the home shall also notify that authority when he ceases to accommodate the child in the home.
- (3) Where a local authority have been notified under this section, they shall—
 - (a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated in the home; and
 - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.
- (4) If the person carrying on any home fails, without reasonable excuse, to comply with this section he shall be guilty of an offence.
- (5) A person authorised by a local authority may enter any residential care home, nursing home or mental nursing home within the authority's area for the purpose of establishing whether the requirements of this section have been complied with.
- (6) Any person who intentionally obstructs another in the exercise of the power of entry shall be guilty of an offence.
- (7) Any person exercising the power of entry shall, if so required, produce some duly authenticated document showing his authority to do so.
- (8) Any person committing an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

87 Welfare of children accommodated in independent schools

- (1) It shall be the duty of—
 - (a) the proprietor of any independent school which provides accommodation for any child; and
 - (b) any person who is not the proprietor of such a school but who is responsible for conducting it,to safeguard and promote the child's welfare.
- (2) Subsection (1) does not apply in relation to a school which is a children's home or a residential care home.
- (3) Where accommodation is provided for a child by an independent school within the area of a local authority, the authority shall take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the school.

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- (4) Where a local authority are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school within their area, they shall notify the Secretary of State.
- (5) Any person authorised by a local authority may, for the purpose of enabling the authority to discharge their duty under this section, enter at any reasonable time any independent school within their area which provides accommodation for any child.
- (6) Any person entering an independent school in exercise of the power conferred by subsection (5) may carry out such inspection of premises, children and records as is prescribed by regulations made by the Secretary of State for the purposes of this section.
- (7) Any person exercising that power shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (8) Any person authorised by the regulations to inspect records—
 - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such assistance as he may reasonably require.
- (9) Any person who intentionally obstructs another in the exercise of any power conferred by this section or the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this section “proprietor” has the same meaning as in the Education Act 1944.

Adoption

88 Amendments of adoption legislation

- (1) The Adoption Act 1976 shall have effect subject to the amendments made by Part I of Schedule 10.
- (2) The Adoption (Scotland) Act 1978 shall have effect subject to the amendments made by Part II of Schedule 10.

Paternity tests

89 Tests to establish paternity

In section 20 of the Family Law Reform Act 1969 (power of court to require use of tests to determine paternity), the following subsections shall be inserted after subsection (1)

—

“(1A) Where—

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- (a) an application is made for a direction under this section; and
 - (b) the person whose paternity is in issue is under the age of eighteen when the application is made,
- the application shall specify who is to carry out the tests.

(1B) In the case of a direction made on an application to which subsection (1A) applies the court shall—

- (a) specify, as the person who is to carry out the tests, the person specified in the application; or
- (b) where the court considers that it would be inappropriate to specify that person (whether because to specify him would be incompatible with any provision made by or under regulations made under section 22 of this Act or for any other reason), decline to give the direction applied for.”

Criminal care and supervision orders

90 Care and supervision orders in criminal proceedings

- (1) The power of a court to make an order under subsection (2) of section 1 of the Children and Young Persons Act 1969 (care proceedings in juvenile courts) where it is of the opinion that the condition mentioned in paragraph (f) of that subsection (“the offence condition”) is satisfied is hereby abolished.
- (2) The powers of the court to make care orders—
 - (a) under section 7(7)(a) of the Children and Young Persons Act 1969 (alteration in treatment of young offenders etc.); and
 - (b) under section 15(1) of that Act, on discharging a supervision order made under section 7(7)(b) of that Act,
 are hereby abolished.
- (3) The powers given by that Act to include requirements in supervision orders shall have effect subject to amendments made by Schedule 12.

Effect and duration of orders etc.

91 Effect and duration of orders etc

- (1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.
- (2) The making of a care order with respect to a child who is the subject of any section 8 order discharges that order.
- (3) The making of a care order with respect to a child who is the subject of a supervision order discharges that other order.
- (4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.

- (5) The making of a care order with respect to a child who is the subject of a school attendance order made under section 37 of the Education Act 1944 discharges the school attendance order.
- (6) Where an emergency protection order is made with respect to a child who is in care, the care order shall have effect subject to the emergency protection order.
- (7) Any order made under section 4(1) or 5(1) shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (8) Any—
 - (a) agreement under section 4; or
 - (b) appointment under section 5(3) or (4),shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (9) An order under Schedule 1 has effect as specified in that Schedule.
- (10) A section 8 order shall, if it would otherwise still be in force, cease to have effect when the child reaches the age of sixteen, unless it is to have effect beyond that age by virtue of section 9(6).
- (11) Where a section 8 order has effect with respect to a child who has reached the age of sixteen, it shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.
- (12) Any care order, other than an interim care order, shall continue in force until the child reaches the age of eighteen, unless it is brought to an end earlier.
- (13) Any order made under any other provision of this Act in relation to a child shall, if it would otherwise still be in force, cease to have effect when he reaches the age of eighteen.
- (14) On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.
- (15) Where an application (“the previous application”) has been made for—
 - (a) the discharge of a care order;
 - (b) the discharge of a supervision order;
 - (c) the discharge of an education supervision order;
 - (d) the substitution of a supervision order for a care order; or
 - (e) a child assessment order,no further application of a kind mentioned in paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds six months.
- (16) Subsection (15) does not apply to applications made in relation to interim orders.
- (17) Where—
 - (a) a person has made an application for an order under section 34;
 - (b) the application has been refused; and

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(c) a period of less than six months has elapsed since the refusal, that person may not make a further application for such an order with respect to the same child, unless he has obtained the leave of the court.

Jurisdiction and procedure etc.

92 Jurisdiction of courts

- (1) The name “domestic proceedings”, given to certain proceedings in magistrates' courts, is hereby changed to “family proceedings” and the names “domestic court” and “domestic court panel” are hereby changed to “family proceedings court” and “family panel”, respectively.
- (2) Proceedings under this Act shall be treated as family proceedings in relation to magistrates' courts.
- (3) Subsection (2) is subject to the provisions of section 65(1) and (2) of the Magistrates' Courts Act 1980 (proceedings which may be treated as not being family proceedings), as amended by this Act.
- (4) A magistrates' court shall not be competent to entertain any application, or make any order, involving the administration or application of—
 - (a) any property belonging to or held in trust for a child; or
 - (b) the income of any such property.
- (5) The powers of a magistrates' court under section 63(2) of the Act of 1980 to suspend or rescind orders shall not apply in relation to any order made under this Act.
- (6) Part I of Schedule 11 makes provision, including provision for the Lord Chancellor to make orders, with respect to the jurisdiction of courts and justices of the peace in relation to—
 - (a) proceedings under this Act; and
 - (b) proceedings under certain other enactments.
- (7) For the purposes of this Act “the court” means the High Court, a county court or a magistrates' court.
- (8) Subsection (7) is subject to the provision made by or under Part I of Schedule 11 and to any express provision as to the jurisdiction of any court made by any other provision of this Act.
- (9) The Lord Chancellor may by order make provision for the principal registry of the Family Division of the High Court to be treated as if it were a county court for such purposes of this Act, or of any provision made under this Act, as may be specified in the order.
- (10) Any order under subsection (9) may make such provision as the Lord Chancellor thinks expedient for the purpose of applying (with or without modifications) provisions which apply in relation to the procedure in county courts to the principal registry when it acts as if it were a county court.
- (11) Part II of Schedule 11 makes amendments consequential on this section.

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;
 - (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
 - (d) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a magistrates' court to relevant proceedings in such a court brought otherwise than on a complaint;
 - (e) with respect to preliminary hearings;
 - (f) for the service outside the United Kingdom, in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a magistrates' court;
 - (g) for the exercise by magistrates' courts, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is outside England and Wales);
 - (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;
 - (i) authorising a single justice to discharge the functions of a magistrates' court with respect to such relevant proceedings as may be prescribed;
 - (j) authorising a magistrates' court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.
- (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.

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- (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.

94 Appeals

- (1) An appeal shall lie to the High Court against—
- (a) the making by a magistrates' court of any order under this Act; or
 - (b) any refusal by a magistrates' court to make such an order.
- (2) Where a magistrates' court has power, in relation to any proceedings under this Act, to decline jurisdiction because it considers that the case can more conveniently be dealt with by another court, no appeal shall lie against any exercise by that magistrates' court of that power.
- (3) Subsection (1) does not apply in relation to an interim order for periodical payments made under Schedule 1.
- (4) On an appeal under this section, the High Court may make such orders as may be necessary to give effect to its determination of the appeal.
- (5) Where an order is made under subsection (4) the High Court may also make such incidental or consequential orders as appear to it to be just.
- (6) Where an appeal from a magistrates' court relates to an order for the making of periodical payments, the High Court may order that its determination of the appeal shall have effect from such date as it thinks fit to specify in the order.
- (7) The date so specified must not be earlier than the earliest date allowed in accordance with rules of court made for the purposes of this section.
- (8) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, the High Court reduces the amount of those payments or discharges the order—
- (a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as the High Court thinks fit; and
 - (b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.
- (9) Any order of the High Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes—
- (a) of the enforcement of the order; and
 - (b) of any power to vary, revive or discharge orders,
- be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the High Court.
- (10) The Lord Chancellor may by order make provision as to the circumstances in which appeals may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11.

- (11) Except to the extent provided for in any order made under subsection (10), no appeal may be made against any decision of a kind mentioned in that subsection.

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.

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 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.
- (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

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- (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—
 - “civil proceedings” and “court” have the same meaning as they have in the Civil Evidence Act 1968 by virtue of section 18 of that Act; and
 - “prescribed” means prescribed by an order under subsection (3).

97 Privacy for children involved in certain proceedings

- (1) Rules made under section 144 of the Magistrates' Courts Act 1980 may make provision for a magistrates' court to sit in private in proceedings in which any powers under this Act may be exercised by the court with respect to any child.
- (2) No person shall publish any material which is intended, or likely, to identify—
 - (a) any child as being involved in any proceedings before a magistrates' court in which any power under this Act 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 Secretary of State may, if satisfied that the welfare of the child requires it, 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—
 - “publish” includes—
 - (a) broadcast by radio, television or cable television; or
 - (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.
- (7) Subsection (1) is without prejudice to—
 - (a) the generality of the rule making power in section 144 of the Act of 1980; or
 - (b) any other power of a magistrates' court to sit in private.
- (8) Section 71 of the Act of 1980 (newspaper reports of certain proceedings) shall apply in relation to any proceedings to which this section applies subject to the provisions of this section.

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 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 in proceedings for an offence other than perjury.

99 Legal aid

- (1) The Legal Aid Act 1988 is amended as mentioned in subsections (2) to (4).
- (2) In section 15 (availability of, and payment for, representation under provisions relating to civil legal aid), for the words “and (3)” in subsection (1) there shall be substituted “to (3B)”; and the following subsections shall be inserted after subsection (3)—
 - “(3A) Representation under this Part shall not be available—
 - (a) to any local authority; or
 - (b) to any other body which falls within a prescribed description, for the purposes of any proceedings under the Children Act 1989.
 - (3B) Regardless of subsection (2) or (3), representation under this Part must be granted where a child who is brought before a court under section 25 of the 1989 Act (use of accommodation for restricting liberty) is not, but wishes to be, legally represented before the court.”
- (3) In section 19(5) (scope of provisions about criminal legal aid), at the end of the definition of “criminal proceedings” there shall be added “and also includes proceedings under section 15 of the Children and Young Persons Act 1969 (variation and discharge of supervision orders) and section 16(8) of that Act (appeals in such proceedings)”.
- (4) Sections 27, 28 and 30(1) and (2) (provisions about legal aid in care, and other, proceedings in relation to children) shall cease to have effect.
- (5) The Lord Chancellor may by order make such further amendments in the Legal Aid Act 1988 as he considers necessary or expedient in consequence of any provision made by or under this Act.

100 Restrictions on use of wardship jurisdiction

- (1) Section 7 of the 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.
- (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.

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- (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).

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.
- (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—

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- (i) section 25 of the 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.

Search warrants

102 Power of constable to assist in exercise of certain powers to search for children or inspect premises

- (1) Where, on an application made by any person for a warrant under this section, it appears to the court—
 - (a) that a person attempting to exercise powers under any enactment mentioned in subsection (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or
 - (b) that any such person is likely to be so prevented from exercising any such powers,it may issue a warrant authorising any constable to assist that person in the exercise of those powers, using reasonable force if necessary.
- (2) Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if—
 - (a) that person so desires; and
 - (b) the court by whom the warrant is issued does not direct otherwise.
- (3) A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or registered health visitor if he so chooses.
- (4) An application for a warrant under this section shall be made in the manner and form prescribed by rules of court.
- (5) Where—
 - (a) an application for a warrant under this section relates to a particular child; and
 - (b) it is reasonably practicable to do so,the application and any warrant granted on the application shall name the child; and where it does not name him it shall describe him as clearly as possible.
- (6) The enactments are—
 - (a) sections 62, 64, 67, 76, 80, 86 and 87;
 - (b) paragraph 8(1)(b) and (2)(b) of Schedule 3;
 - (c) section 33 of the Adoption Act 1976 (duty of local authority to secure that protected children are visited from time to time).

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General

103 Offences by bodies corporate

- (1) This section applies where any offence under this Act is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

104 Regulations and orders

- (1) Any power of the Lord Chancellor or the Secretary of State under this Act to make an order, regulations, or rules, except an order under section 54(2), 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section 17(4), 107 or 108(2), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under section 17(4) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument made under this Act may—
 - (a) make different provision for different cases;
 - (b) provide for exemptions from any of its provisions; and
 - (c) contain such incidental, supplemental and transitional provisions as the person making it considers expedient.

105 Interpretation

- (1) In this Act—
 - “adoption agency” means a body which may be referred to as an adoption agency by virtue of section 1 of the Adoption Act 1976;
 - “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971;
 - “care order” has the meaning given by section 31(11) and also includes any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Act; and any reference to a child who is in the care of an authority is a reference to a child who is in their care by virtue of a care order;
 - “child” means, subject to paragraph 16 of Schedule 1, a person under the age of eighteen;
 - “child assessment order” has the meaning given by section 43(2);
 - “child minder” has the meaning given by section 71;
 - “child of the family”, in relation to the parties to a marriage, means—
 - (a) a child of both of those parties;

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- (b) any other child, not being a child who is placed with those parties as foster parents by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family;
- “children’s home” has the same meaning as in section 63;
- “community home” has the meaning given by section 53;
- “contact order” has the meaning given by section 8(1);
- “day care” has the same meaning as in section 18;
- “disabled”, in relation to a child, has the same meaning as in section 17(11);
- “district health authority” has the same meaning as in the National Health Service Act 1977;
- “domestic premises” has the meaning given by section 71(12);
- “education supervision order” has the meaning given in section 36;
- “emergency protection order” means an order under section 44;
- “family assistance order” has the meaning given in section 16(2);
- “family proceedings” has the meaning given by section 8(3);
- “functions” includes powers and duties;
- “guardian of a child” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the provisions of section 5;
- “harm” has the same meaning as in section 31(9) and the question of whether harm is significant shall be determined in accordance with section 31(10);
- “health authority” means any district health authority and any special health authority established under the National Health Service Act 1977;
- “health service hospital” has the same meaning as in the National Health Service Act 1977;
- “hospital” has the same meaning as in the Mental Health Act 1983, except that it does not include a special hospital within the meaning of that Act;
- “ill-treatment” has the same meaning as in section 31(9);
- “independent school” has the same meaning as in the Education Act 1944;
- “local authority” means, in relation to England and Wales, the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London and, in relation to Scotland, a local authority within the meaning of section 1(2) of the Social Work (Scotland) Act 1968;
- “local authority foster parent” has the same meaning as in section 23(3);
- “local education authority” has the same meaning as in the Education Act 1944;
- “local housing authority” has the same meaning as in the Housing Act 1985;
- “mental nursing home” has the same meaning as in the Registered Homes Act 1984;
- “nursing home” has the same meaning as in the Act of 1984;
- “parental responsibility” has the meaning given in section 3;
- “parental responsibility agreement” has the meaning given in section 4(1);
- “prescribed” means prescribed by regulations made under this Act;
- “privately fostered child” and “to foster a child privately” have the same meaning as in section 66;
- “prohibited steps order” has the meaning given by section 8(1);

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“protected child” has the same meaning as in Part III of the Adoption Act 1976;

“registered children’s home” has the same meaning as in section 63;

“registered pupil” has the same meaning as in the Education Act 1944;

“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity) or step-parent;

“residence order” has the meaning given by section 8(1);

“residential care home” has the same meaning as in the Registered Homes Act 1984;

“responsible person”, in relation to a child who is the subject of a supervision order, has the meaning given in paragraph 1 of Schedule 3;

“school” has the same meaning as in the Education Act 1944 or, in relation to Scotland, in the Education (Scotland) Act 1980;

“service”, in relation to any provision made under Part III, includes any facility;

“signed”, in relation to any person, includes the making by that person of his mark;

“special educational needs” has the same meaning as in the Education Act 1981;

“special health authority” has the same meaning as in the National Health Service Act 1977;

“specific issue order” has the meaning given by section 8(1);

“supervision order” has the meaning given by section 31(11);

“supervised child” and “supervisor”, in relation to a supervision order or an education supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision he is (or is to be) by virtue of the order;

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

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

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

- (2) References in this Act to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of his birth must be read with section 1 of the Family Law Reform Act 1987 (which extends the meaning of such references).
- (3) References in this Act to—
 - (a) a person with whom a child lives, or is to live, as the result of a residence order; or
 - (b) a person in whose favour a residence order is in force,
 shall be construed as references to the person named in the order as the person with whom the child is to live.
- (4) References in this Act to a child who is looked after by a local authority have the same meaning as they have (by virtue of section 22) in Part III.
- (5) References in this Act to accommodation provided by or on behalf of a local authority are references to accommodation so provided in the exercise of functions which stand referred to the social services committee of that or any other local authority under the Local Authority Social Services Act 1970.

- (6) In determining the “ordinary residence” of a child for any purpose of this Act, there shall be disregarded any period in which he lives in any place—
- (a) which is a school or other institution;
 - (b) in accordance with the requirements of a supervision order under this Act or an order under section 7(7)(b) of the Children and Young Persons Act 1969; or
 - (c) while he is being provided with accommodation by or on behalf of a local authority.
- (7) References in this Act to children who are in need shall be construed in accordance with section 17.
- (8) Any notice or other document required under this Act to be served on any person may be served on him by being delivered personally to him, or being sent by post to him in a registered letter or by the recorded delivery service at his proper address.
- (9) Any such notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (10) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a person—
- (a) in the case of a secretary or clerk of a body corporate, shall be that of the registered or principal office of that body;
 - (b) in the case of a partner of a firm, shall be that of the principal office of the firm; and
 - (c) in any other case, shall be the last known address of the person to be served.

106 Financial provisions

- (1) Any—
- (a) grants made by the Secretary of State under this Act; and
 - (b) any other expenses incurred by the Secretary of State under this Act,
- shall be payable out of money provided by Parliament.
- (2) Any sums received by the Secretary of State under section 58, or by way of the repayment of any grant made under section 82(2) or (4) shall be paid into the Consolidated Fund.

107 Application to Channel Islands

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to any of the Channel Islands with such exceptions and modifications as may be specified in the Order.

108 Short title, commencement extent etc

- (1) This Act may be cited as the Children Act 1989.
- (2) Sections 89 and 96(3) to (7), and paragraph 35 of Schedule 12, shall come into force on the passing of this Act and paragraph 36 of Schedule 12 shall come into force at the end of the period of two months beginning with the day on which this Act is passed

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but otherwise this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or the Secretary of State, or by both acting jointly.

- (3) Different dates may be appointed for different provisions of this Act and in relation to different cases.
- (4) The minor amendments set out in Schedule 12 shall have effect.
- (5) The consequential amendments set out in Schedule 13 shall have effect.
- (6) The transitional provisions and savings set out in Schedule 14 shall have effect.
- (7) The repeals set out in Schedule 15 shall have effect.
- (8) An order under subsection (2) may make such transitional provisions or savings as appear to the person making the order to be necessary or expedient in connection with the provisions brought into force by the order, including—
 - (a) provisions adding to or modifying the provisions of Schedule 14, and
 - (b) such adaptations—
 - (i) of the provisions brought into force by the order; and
 - (ii) of any provisions of this Act then in force,
 as appear to him necessary or expedient in consequence of the partial operation of this Act.
- (9) The Lord Chancellor may by order make such amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.
- (10) This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Secretary of State may by order prescribe.
- (11) The following provisions of this Act extend to Scotland—
 - section 19;
 - section 25(8);
 - section 50(13);
 - Part X;
 - section 80(1)(h) and (i), (2) to (4), (5)(a), (b) and (h) and (6) to (12);
 - section 88;
 - section 104 (so far as necessary);
 - section 105 (so far as necessary);
 - subsections (1) to (3), (8) and (9) and this subsection;
 - in Schedule 2, paragraph 24;
 - in Schedule 12, paragraphs 1, 7 to 10, 18, 27, 30(a) and 41 to 44;
 - in Schedule 13, paragraphs 18 to 23, 32, 46, 47, 50, 57, 62, 63, 68(a) and (b) and 71;
 - in Schedule 14, paragraphs 1, 33 and 34;
 - in Schedule 15, the entries relating to—
 - (a) the Custody of Children Act 1891;
 - (b) the Nurseries and Child Minders Regulation Act 1948;
 - (c) section 53(3) of the Children and Young Persons Act 1963;
 - (d) section 60 of the Health Services and Public Health Act 1968;

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- (e) the Social Work (Scotland) Act 1968;
- (f) the Adoption (Scotland) Act 1978;
- (g) the Child Care Act 1980;
- (h) the Foster Children (Scotland) Act 1984;
- (i) the Child Abduction and Custody Act 1985; and
- (j) the Family Law Act 1986.

- (12) The following provisions of this Act extend to Northern Ireland—
- section 50;
 - section 101(1)(b), (2) and (5)(a)(i);
 - subsections (1) to (3), (8) and (9) and this subsection;
 - in Schedule 2, paragraph 24;
 - in Schedule 12, paragraphs 7 to 10, 18 and 27;
 - in Schedule 13, paragraphs 21, 22, 46, 47, 57, 62, 63, 68(c) to (e) and 69 to 71;
 - in Schedule 14, paragraphs 18, 28 to 30 and 38(a); and
 - in Schedule 15, the entries relating to the Guardianship of Minors Act 1971, the Children Act 1975, the Child Care Act 1980, and the Family Law Act 1986.