



Children Act 1989

1989 CHAPTER 41

PART II

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

General

10 Power of court to make section 8 orders.

- (1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 8 order with respect to the child if—
 - (a) an application for the order has been made by a person who—
 - (i) is entitled to apply for a section 8 order with respect to the child; or
 - (ii) has obtained the leave of the court to make the application; or
 - (b) the court considers that the order should be made even though no such application has been made.
- (2) The court may also make a section 8 order with respect to any child on the application of a person who—
 - (a) is entitled to apply for a section 8 order with respect to the child; or
 - (b) has obtained the leave of the court to make the application.
- (3) This section is subject to the restrictions imposed by section 9.
- (4) The following persons are entitled to apply to the court for any section 8 order with respect to a child—
 - (a) any parent [^{F1}, guardian or special guardian] of the child;
 - [^{F2}(aa) any person who by virtue of section 4A has parental responsibility for the child;]
 - [^{F3}(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.]

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- (5) The following persons are entitled to apply for a [^{F4}child arrangements] order with respect to a child—
- (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
 - [^{F5}(aa) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child is a child of the family;]
 - (b) any person with whom the child has lived for a period of at least three years;
 - (c) any person who—
 - [^{F6}(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;]
 - (ii) in any case where the child is in the care of a local authority, has the consent of that authority; or
 - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.
 - [^{F7}(d) any person who has parental responsibility for the child by virtue of provision made under section 12(2A).]
- [^{F8}(5A) A local authority foster parent is entitled to apply for a [^{F9}child arrangements order to which subsection (5C) applies] with respect to a child if the child has lived with him for a period of at least one year immediately preceding the application.]
- [^{F10}(5B) A relative of a child is entitled to apply for a [^{F11}child arrangements order to which subsection (5C) applies] with respect to the child if the child has lived with the relative for a period of at least one year immediately preceding the application.]
- [^{F12}(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) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 8 order shall be entitled to do so if—
- (a) the order was made on his application; or
 - (b) in the case of a [^{F13}child arrangements] order, he is named in [^{F14}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.]
- (7) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 8 order as may be prescribed in relation to that category of person.
- [^{F15}(7A) If a special guardianship order is in force with respect to a child, an application for a [^{F16}child arrangements order to which subsection (7B) applies] may only be made with respect to him, if apart from this subsection the leave of the court is not required, with such leave.]

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- [^{F17}(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.]
- (8) Where the person applying for leave to make an application for a section 8 order is the child concerned, the court may only grant leave if it is satisfied that he has sufficient understanding to make the proposed application for the section 8 order.
- (9) Where the person applying for leave to make an application for a section 8 order is not the child concerned, the court shall, in deciding whether or not to grant leave, have particular regard to—
- (a) the nature of the proposed application for the section 8 order;
 - (b) the applicant’s connection with the child;
 - (c) any risk there might be of that proposed application disrupting the child’s life to such an extent that he would be harmed by it; and
 - (d) where the child is being looked after by a local authority—
 - (i) the authority’s plans for the child’s future; and
 - (ii) the wishes and feelings of the child’s parents.
- (10) The period of three years mentioned in subsection (5)(b) need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application.

Textual Amendments

- F1** Words in s. 10(4)(a) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F2** S. 10(4)(aa) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F3** S. 10(4)(b) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(2)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F4** Words in s. 10(5) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(3)(a)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F5** S. 10(5)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), **s. 77**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F6** S. 10(5)(c)(i) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(3)(b)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F7** S. 10(5)(d) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(3)(c)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F8** S. 10(5A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 56(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F9** Words in s. 10(5A) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(4)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F10** S. 10(5B) inserted (1.9.2009) by Children and Young Persons Act 2008 (c. 23), **ss. 36, 44**; S.I. 2009/1921, **art. 2(a)**; S.I. 2009/2273, **art. 2(2)(j)**
- F11** Words in s. 10(5B) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(4)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F12** S. 10(5C) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 5(5)**; S.I. 2014/889, **art. 4(f)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

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- F13** Words in s. 10(6)(b) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 5\(6\)\(a\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F14** Words in s. 10(6)(b) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 5\(6\)\(b\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F15** S. 10(7A) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, [Sch. 3 para. 56\(d\)](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, [art. 2\(o\)](#)
- F16** Words in s. 10(7A) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 5\(7\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F17** S. 10(7B) inserted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 5\(8\)](#); S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

Commencement Information

- I1** S. 10 wholly in force at the 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 8(4)(k) inserted by 2021 c. 17 s. 52(1)
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)