



# Children Act 1989

## 1989 CHAPTER 41

### PART IV

#### CARE AND SUPERVISION

##### *General*

### 31 Care and Supervision

- (1) On the application of any local authority or authorised person, the court may make an order—
- (a) placing the child with respect to whom the application is made in the care of a designated local authority; or
  - (b) putting him under the supervision of a designated local authority<sup>F1</sup>. . .
- (2) A court may only make a care order or supervision order if it is satisfied—
- (a) that the child concerned is suffering, or is likely to suffer, significant harm; and
  - (b) that the harm, or likelihood of harm, is attributable to—
    - (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
    - (ii) the child's being beyond parental control.
- (3) No care order or supervision order may be made with respect to a child who has reached the age of seventeen (or sixteen, in the case of a child who is married).

[<sup>F2</sup>(3A) A court deciding whether to make a care order—

- (a) is required to consider the permanence provisions of the section 31A plan for the child concerned, but
- (b) is not required to consider the remainder of the section 31A plan, subject to section 34(11).

[<sup>F3</sup>(3B) For the purposes of subsection (3A), the permanence provisions of a section 31A plan are—

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- (a) such of the plan's provisions setting out the long-term plan for the upbringing of the child concerned as provide for any of the following—
    - (i) the child to live with any parent of the child's or with any other member of, or any friend of, the child's family;
    - (ii) adoption;
    - (iii) long-term care not within sub-paragraph (i) or (ii);
  - (b) such of the plan's provisions as set out any of the following—
    - (i) the impact on the child concerned of any harm that he or she suffered or was likely to suffer;
    - (ii) the current and future needs of the child (including needs arising out of that impact);
    - (iii) the way in which the long-term plan for the upbringing of the child would meet those current and future needs.]
- (3C) The Secretary of State may by regulations amend this section for the purpose of altering what for the purposes of subsection (3A) are the permanence provisions of a section 31A plan.]
- (4) An application under this section may be made on its own or in any other family proceedings.
- (5) The court may—
- (a) on an application for a care order, make a supervision order;
  - (b) on an application for a supervision order, make a care order.
- (6) Where an authorised person proposes to make an application under this section he shall—
- (a) if it is reasonably practicable to do so; and
  - (b) before making the application,
- consult the local authority appearing to him to be the authority in whose area the child concerned is ordinarily resident.
- (7) An application made by an authorised person shall not be entertained by the court if, at the time when it is made, the child concerned is—
- (a) the subject of an earlier application for a care order, or supervision order, which has not been disposed of; or
  - (b) subject to—
    - (i) a care order or supervision order;
    - [<sup>F4</sup>(ii) a youth rehabilitation order within [<sup>F5</sup>the meaning given by section 173 of the Sentencing Code]; or]
    - [<sup>F6</sup>(iii) a compulsory supervision order or interim compulsory supervision order as defined by sections 83 and 86 of the Children's Hearings (Scotland) Act 2011. ]
- (8) The local authority designated in a care order must be—
- (a) the authority within whose area the child is ordinarily resident; or
  - (b) where the child does not reside in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the order is being made.
- (9) In this section—
- “authorised person” means—

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- (a) the National Society for the Prevention of Cruelty to Children and any of its officers; and
- (b) any person authorised by order of the Secretary of State to bring proceedings under this section and any officer of a body which is so authorised;

“harm” means ill-treatment or the impairment of health or development [F7 including, for example, impairment suffered from seeing or hearing the ill-treatment of another];

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health; and

“ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical.

- (10) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.

- (11) In this Act—

“a care order” means (subject to section 105(1)) an order under subsection (1)(a) and (except where express provision to the contrary is made) includes an interim care order made under section 38; and

“a supervision order” means an order under subsection (1)(b) and (except where express provision to the contrary is made) includes an interim supervision order made under section 38.

#### Textual Amendments

- F1** Words in s. 31(1)(b) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 90, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**
- F2** S. 31(3A)-(3C) substituted for s. 31(3A) (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 15(1), 139(6)**; S.I. 2014/889, **art. 4(d)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F3** S. 31(3B) substituted (31.10.2017) by Children and Social Work Act 2017 (c. 16), **ss. 8, 70(2)**; S.I. 2017/918, **reg. 2(a)**
- F4** S. 31(7)(b)(ii) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 35** (with **Sch. 27 paras. 1, 5**); S.I. 2009/3074, **art. 2(p)(v)**
- F5** Words in s. 31(7)(b)(ii) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 109** (with **Sch. 27**); S.I. 2020/1236, **reg. 2**
- F6** S. 31(7)(b)(iii) substituted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013/1465), **art. 1(2), Sch. 1 para. 2(2)**
- F7** S. 31(9): words in definition of “harm” inserted (31.1.2005) by 2002 c. 38, ss. 120, 148 (with **Sch. 4 paras. 6-8**); S.I. 2004/3203, **art. 2(2)**

#### Modifications etc. (not altering text)

- C1** S. 31 applied (14.10.1991) by S.I. 1991/2032, **art. 3(1)**.
- C2** S. 31 modified (1.11.2012) by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 (S.I. 2010/1898), **regs. 1(2), 5(3)(a)**
- C3** S. 31(1)(a) extended (30.9.1998) by 1998 c. 37, **s. 12(6)(a)(7)**; S.I. 1998/2327, **art. 2(1)(c)** (subject to **arts. 5-8**)
- C4** S. 31(2) modified (30.9.1998) by 1998 c. 37, **s. 12(7)**; S.I. 1998/2327, **art. 2(1)(c)** (subject to **arts. 5-8**).

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#### **Commencement Information**

**II** S. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**Changes to legislation:**

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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)