



# Children Act 1989

## 1989 CHAPTER 41

### PART IV

#### CARE AND SUPERVISION

##### *Powers of court*

#### **[<sup>F1</sup>38A Power to include exclusion requirement in interim care order.**

- (1) Where—
  - (a) on being satisfied that there are reasonable grounds for believing that the circumstances with respect to a child are as mentioned in section 31(2)(a) and (b)(i), the court makes an interim care order with respect to a child, and
  - (b) the conditions mentioned in subsection (2) are satisfied,the court may include an exclusion requirement in the interim care order.
- (2) The conditions are—
  - (a) that there is reasonable cause to believe that, if a person (“the relevant person”) is excluded from a dwelling-house in which the child lives, the child will cease to suffer, or cease to be likely to suffer, significant harm, and
  - (b) that another person living in the dwelling-house (whether a parent of the child or some other person)—
    - (i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him, and
    - (ii) consents to the inclusion of the exclusion requirement.
- (3) For the purposes of this section an exclusion requirement is any one or more of the following—
  - (a) a provision requiring the relevant person to leave a dwelling-house in which he is living with the child,
  - (b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

---

*Changes to legislation: Children Act 1989, Section 38A is up to date with all changes known to be in force on or before 26 April 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) View outstanding changes*

---

- (c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.
- (4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the interim care order.
- (5) Where the court makes an interim care order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.
- (6) Where the court attaches a power of arrest to an exclusion requirement of an interim care order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.
- (7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the interim care order.
- (8) Where a power of arrest is attached to an exclusion requirement of an interim care order by virtue of subsection (5), a constable may arrest without warrant any person whom he has reasonable cause to believe to be in breach of the requirement.
- (9) Sections 47(7), (11) and (12) and 48 of, and Schedule 5 to, the Family Law Act 1996 shall have effect in relation to a person arrested under subsection (8) of this section as they have effect in relation to a person arrested under section 47(6) of that Act.
- (10) If, while an interim care order containing an exclusion requirement is in force, the local authority have removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the interim care order shall cease to have effect in so far as it imposes the exclusion requirement.]

---

#### Textual Amendments

- F1** Ss. 38A and 38B inserted(*1.10.1997*) by *1996 c. 27, ss. 52, Sch. 6 para. 1*(with Sch. 9 para. 5); *S.I. 1997/1892, art.3*

**Changes to legislation:**

Children Act 1989, Section 38A is up to date with all changes known to be in force on or before 26 April 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.

[View outstanding changes](#)

**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)