



Children Act 1989

1989 CHAPTER 41

PART V

PROTECTION OF CHILDREN

44 Orders for emergency protection of children.

- (1) Where any person (“the applicant”) applies to the court for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that—
- (a) there is reasonable cause to believe that the child is likely to suffer significant harm if—
 - (i) he is not removed to accommodation provided by or on behalf of the applicant; or
 - (ii) he does not remain in the place in which he is then being accommodated;
 - (b) in the case of an application made by a local authority—
 - (i) enquiries are being made with respect to the child under section 47(1)(b); and
 - (ii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and that the applicant has reasonable cause to believe that access to the child is required as a matter of urgency; or
 - (c) in the case of an application made by an authorised person—
 - (i) the applicant has reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm;
 - (ii) the applicant is making enquiries with respect to the child’s welfare; and
 - (iii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.

Changes to legislation: Children Act 1989, Section 44 is up to date with all changes known to be in force on or before 18 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

- (2) In this section—
- (a) “authorised person” means a person who is an authorised person for the purposes of section 31; and
 - (b) “a person authorised to seek access” means—
 - (i) in the case of an application by a local authority, an officer of the local authority or a person authorised by the authority to act on their behalf in connection with the enquiries; or
 - (ii) in the case of an application by an authorised person, that person.
- (3) Any person—
- (a) seeking access to a child in connection with enquiries of a kind mentioned in subsection (1); and
 - (b) purporting to be a person authorised to do so,
- shall, on being asked to do so, produce some duly authenticated document as evidence that he is such a person.
- (4) While an order under this section (“an emergency protection order”) is in force it—
- (a) operates as a direction to any person who is in a position to do so to comply with any request to produce the child to the applicant;
 - (b) authorises—
 - (i) the removal of the child at any time to accommodation provided by or on behalf of the applicant and his being kept there; or
 - (ii) the prevention of the child’s removal from any hospital, or other place, in which he was being accommodated immediately before the making of the order; and
 - (c) gives the applicant parental responsibility for the child.
- (5) Where an emergency protection order is in force with respect to a child, the applicant—
- (a) shall only exercise the power given by virtue of subsection (4)(b) in order to safeguard the welfare of the child;
 - (b) shall take, and shall only take, such action in meeting his parental responsibility for the child as is reasonably required to safeguard or promote the welfare of the child (having regard in particular to the duration of the order); and
 - (c) shall comply with the requirements of any regulations made by the Secretary of State for the purposes of this subsection.
- (6) Where the court makes an emergency protection order, it may give such directions (if any) as it considers appropriate with respect to—
- (a) the contact which is, or is not, to be allowed between the child and any named person;
 - (b) the medical or psychiatric examination or other assessment of the child.
- (7) Where any direction is given under subsection (6)(b), the child may, if he is of sufficient understanding to make an informed decision, refuse to submit to the examination or other assessment.
- (8) A direction under subsection (6)(a) may impose conditions and one under subsection (6)(b) may be to the effect that there is to be—
- (a) no such examination or assessment; or
 - (b) no such examination or assessment unless the court directs otherwise.

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- (9) A direction under subsection (6) may be—
- (a) given when the emergency protection order is made or at any time while it is in force; and
 - (b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.
- (10) Where an emergency protection order is in force with respect to a child and—
- (a) the applicant has exercised the power given by subsection (4)(b)(i) but it appears to him that it is safe for the child to be returned; or
 - (b) the applicant has exercised the power given by subsection (4)(b)(ii) but it appears to him that it is safe for the child to be allowed to be removed from the place in question,
- he shall return the child or (as the case may be) allow him to be removed.
- (11) Where he is required by subsection (10) to return the child the applicant shall—
- (a) return him to the care of the person from whose care he was removed; or
 - (b) if that is not reasonably practicable, return him to the care of—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) such other person as the applicant (with the agreement of the court) considers appropriate.
- (12) Where the applicant has been required by subsection (10) to return the child, or to allow him to be removed, he may again exercise his powers with respect to the child (at any time while the emergency protection order remains in force) if it appears to him that a change in the circumstances of the case makes it necessary for him to do so.
- (13) Where an emergency protection order has been made with respect to a child, the applicant shall, subject to any direction given under subsection (6), allow the child reasonable contact with—
- (a) his parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him;
 - (c) any person with whom he was living immediately before the making of the order;
 - [^{F1}(d) any person named in a child arrangements order as a person with whom the child is to spend time or otherwise have contact;]
 - (e) any person who is allowed to have contact with the child by virtue of an order under section 34; and
 - (f) any person acting on behalf of any of those persons.
- (14) Wherever it is reasonably practicable to do so, an emergency protection order shall name the child; and where it does not name him it shall describe him as clearly as possible.
- (15) A person shall be guilty of an offence if he intentionally obstructs any person exercising the power under subsection (4)(b) to remove, or prevent the removal of, a child.
- (16) A person guilty of an offence under subsection (15) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Textual Amendments

- F1** S. 44(13)(d) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), [Sch. 2 para. 35](#); [S.I. 2014/889](#), [art. 4\(f\)](#) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)
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Commencement Information

- I1** S. 44 wholly in force at 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)