



Armed Forces Act 1991

1991 CHAPTER 62

PART III

PROTECTION OF CHILDREN OF SERVICE FAMILIES

17 Power to make service family child assessment orders.

- ^{F1}[(1) The power to make an order under this section (in this Part of this Act referred to as an “assessment order”) is exercisable only with respect to a child who—
- (a) resides outside the British Islands with the family of a person subject to service law serving in a country or territory outside the British Islands or of a [^{F2}civilian in a corresponding position][^{F2}civilian subject to service discipline], or
 - (b) is staying (for however short a time) outside the British Islands with such a family.
- (2) In the following provisions of this section and in section 18 of this Act, any reference to a person with whom a child was at any time residing includes a reference to a person with whom a child was staying.]
- (3) On an application made with respect to a child by a person authorised in that behalf by regulations, [^{F3}the officer having jurisdiction][^{F3}a judge advocate] may make an assessment order with respect to the child if, but only if, he is satisfied that—
- (a) the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm;
 - (b) an assessment of the state of the child’s health or development or of the way in which he has been treated is required to enable the applicant to determine whether or not the child is suffering, or is likely to suffer, significant harm; and
 - (c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an assessment order.
- (4) A person making an application for an assessment order with respect to a child shall take such steps as are reasonably practicable to ensure that, before the application is considered, notice of the application is given to—

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- (a) the child;
 - (b) his parents;
 - (c) any other person who has parental responsibility for him;
 - (d) any other person caring for the child or with whom the child is residing immediately before the making of the application;
 - (e) any person in whose favour a contact order is in force with respect to the child; and
 - (f) any person who is allowed to have contact with the child by virtue of an order ^[F4]—
 - (i) under section 34 of the ^{M1}Children Act 1989 ^[F5]or Article 53 of the Children (Northern Ireland) Order 1995^[F6]; or
 - (ii) under section 88 of the Children (Scotland) Act 1995]
- (5) An assessment order shall not be made with respect to any child if ^[F7]the officer^[F7]the judge advocate] to whom the application is made is satisfied—
- (a) that there are grounds for making a protection order with respect to the child; and
 - (b) that he ought to make such an order rather than an assessment order; and ^[F8]an officer^[F8]a judge advocate] to whom an application for an assessment order is made may treat the application as an application for a protection order.
- (6) Regulations may make provision with respect to the procedure to be followed on and in connection with the making of an assessment order.

Textual Amendments

- F1** S. 17(1)(2) substituted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 57**; S.I. 2001/3234, **art. 2**
- F2** Words in s. 17(1)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006** (c. 52), s. 383(2), **Sch. 13 para. 1(2)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F3** Words in s. 17(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006** (c. 52), s. 383(2), **Sch. 13 para. 1(3)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F4** Hyphen and sub-para. (i) inserted (1.4.1997) in s. 17(4)(f) by 1995 c. 36, s. 105(4), **Sch. 4 para. 54(2)(a)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**
- F5** Words in s. 17(4)(f) inserted (4.11.1996) by S.I. 1996/756, **art. 14(2)**, S.R. 1996/297, **art. 3**
- F6** Semicolon, word and sub-para. (ii) inserted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 54(2)(b)** (with s. 103(1); S.I. 1996/3201, **art. 3(7)**)
- F7** Words in s. 17(5) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006** (c. 52), s. 383(2), **Sch. 13 para. 1(4)(a)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F8** Words in s. 17(5) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006** (c. 52), s. 383(2), **Sch. 13 para. 1(4)(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

- M1** 1989 c. 41.

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18 Content, effect, variation and discharge of assessment orders.

- (1) An assessment order shall—
 - (a) specify the date by which the assessment is to begin; and
 - (b) have effect for such period, not exceeding seven days beginning with that date, as may be specified in the order.
- (2) Where an assessment order is in force with respect to a child, it shall be the duty of any person who is in a position to produce the child—
 - (a) to produce him to such person as may be named in the order; and
 - (b) to comply with such directions relating to the assessment of the child as the [F9 officer][F9 judge advocate] making the order considers appropriate to include in the order.
- (3) Subject to subsection (4) below, an assessment order authorises any person carrying out the assessment, or any part of the assessment, to do so in accordance with the terms of the order.
- (4) If the child to whom an assessment order relates is of sufficient understanding to make an informed decision, he may refuse to submit to a medical or psychiatric examination or other assessment.
- (5) The child to whom an assessment order relates may only be kept away from home—
 - (a) in accordance with directions included in the order; and
 - (b) if it is necessary for the purposes of the assessment; and
 - (c) for such period or periods as may be specified in the order.
- (6) Where the child to whom an assessment order relates is to be kept away from home, the order shall contain such directions as the [F10 officer][F10 judge advocate] making it considers appropriate with regard to the contact that the child must be allowed to have with other persons while away from home.
- (7) In such circumstances and subject to such conditions as may be prescribed by regulations, an assessment order may be varied or discharged on an application made, in such manner as may be so prescribed, by—
 - (a) the child to whom the order relates;
 - (b) a parent of his;
 - (c) any other person who has parental responsibility for him;
 - (d) any other person caring for the child or with whom the child was residing immediately before the making of the application;
 - (e) any person in whose favour a contact order is in force with respect to the child; or
 - (f) any person who is allowed to have contact with the child by virtue of an order [F11—
 - (i) under section 34 of the M2 Children Act 1989 [F12 or Article 53 of the Children (Northern Ireland) Order 1995]. [F13; or
 - (ii) under section 88 of the Children (Scotland) Act 1995]
- (8) A person subject to service law [F14 or a civilian in a corresponding position who][F14, or a civilian subject to service discipline, commits an offence if he] intentionally obstructs any person exercising a power conferred [F15 on him] by virtue of the making of an assessment order [F16 shall be liable on conviction to a fine or to any less punishment

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provided by the ^{M3}Army Act 1955, the ^{M4}Air Force Act 1955 or the 1957 Act, as the case may require].

[^{F17}(8A) A person guilty of an offence under this section is liable to any punishment mentioned in rows 5 to 12 of the Table in section 164 of the Armed Forces Act 2006.

(8B) For the purposes of determining the court's powers when sentencing a civilian offender (within the meaning of Part 1 of Schedule 3 to the Armed Forces Act 2006) for an offence under this section, subsection (8A) has effect as if the reference to rows 5 to 12 were to rows 2 to 7.

(8C) For the purposes of determining the court's powers when sentencing an offender to whom Part 2 of that Schedule applies (ex-servicemen etc) for an offence under this section, subsection (8A) has effect as if the reference to rows 5 to 12 were to rows 5 to 10.]

(9) [^{F18}Any offence under subsection (8) above shall be treated,—

- (a) if the offender is subject to military law or a civilian to whom Part II of the ^{M5}Army Act 1955 is applied by section 209 of that Act, as if it were an offence against a provision of Part II of that Act which is triable by court-martial under that Act;
- (b) if the offender is subject to air-force law or a civilian to whom Part II of the ^{M6}Air Force Act 1955 is applied by section 209 of that Act, as if it were an offence against a provision of Part II of that Act which is triable by court-martial under that Act;
- (c) if the offender is subject to the 1957 Act or a civilian to whom Parts I and II of that Act are applied by section 118 of that Act, as if it were an offence against a provision of Part I of that Act which is triable by court-martial under that Act.]

(10) Any power conferred by this section to give directions shall be exercisable subject to, and in accordance with, any provision made by regulations.

Textual Amendments

- F9** Words in s. 18(2)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 2\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F10** Words in s. 18(6) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 2\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F11** Hyphen and sub-para. (i) inserted (1.4.1997) in s. 18(7)(f) by 1995 c. 36, s. 105(4), [Sch. 4 para. 54\(3\)\(a\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F12** Words in s. 18(7)(f) added (4.11.1996) by S.I. 1996/756, [art. 14\(3\)](#); S.R. 1996/297, [art. 3](#)
- F13** Semicolon, word and sub-para. (ii) inserted (1.4.197) in s. 18(7)(f) by 1995 c. 36, s. 105(4), [Sch. 4 para. 54\(3\)\(b\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F14** Words in s. 18(8) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 2\(4\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F15** Words in s. 18(8) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 2\(4\)\(b\)](#), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F16** Words in s. 18(8) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 2\(4\)\(c\)](#), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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- F17** S. 18(8A)-(8C) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 13 para. 2(5)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F18** S. 18(9) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 13 para. 2(6), Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

- M2** 1989 c. 41.
M3 1955 c. 18.
M4 1955 c. 19.
M5 1955 c. 18.
M6 1955 c. 19.

19 Power to make orders for the emergency protection of children of service families.

- [^{F19}(1) The power to make an order under this section (in this Part of this Act referred to as a “protection order”) is exercisable only with respect to a child who—
- (a) resides outside the British Islands with the family of a person subject to service law serving in a country or territory outside the British Islands or of a [^{F20}civilian in a corresponding position][^{F20}civilian subject to service discipline], or
 - (b) is staying (for however short a time) outside the British Islands with such a family.
- (2) In the following provisions of this Part, any reference to a person with whom a child was at any time residing includes a reference to a person with whom a child was staying.]
- (3) On an application made by any person with respect to a child, [^{F21}the officer having jurisdiction][^{F21}a judge advocate] may make a protection order with respect to the child if, but only if, he is satisfied that—
- (a) there is reasonable cause to believe that the child is likely to suffer significant harm if he is not removed to accommodation provided by or on behalf of the applicant; or
 - (b) there is reasonable cause to believe that the child is likely to suffer significant harm if he does not remain in the place in which he is then being accommodated (whether or not that is the place where he is resident); or
 - (c) in the case of an application made by a designated 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 the applicant or a person authorised by the applicant to seek access and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.
- (4) No protection order shall be made without affording—
- (a) the child to whom it is proposed that the order should relate,

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- (b) his parents,
- (c) any other person who has parental responsibility for him, and
- (d) any other person with whom he was residing immediately before the making of the application for the order,

an opportunity to make representations to the [^{F22}officer][^{F22}judge advocate] to whom the application for the order is made, except where it appears to that [^{F22}officer][^{F22}judge advocate] that it would be undesirable to do so in the interests of the child or that it would be impracticable, or would cause unnecessary delay, to communicate with any parent of the child or with any such other person as is mentioned in paragraph (c) or paragraph (d) above.

(5) Any person—

- (a) seeking access to a child in connection with enquiries of a kind mentioned in subsection (3)(c) above, and
- (b) purporting to be a designated person or a person authorised by a designated person to seek such access,

shall, on being asked to do so, produce some duly authenticated document as evidence that he is such a person.

(6) Regulations may—

- (a) prescribe the descriptions of persons who for the purposes of this section are designated persons; and
- (b) make provision with respect to the procedure to be followed on and in connection with the making of protection orders.

(7) [^{F23}This section and sections 20 to 22 below have effect in place of section 14 of the ^{M7}Armed Forces Act 1981 (temporary removal to and detention in a place of safety abroad of children of service families in need of care or control).]

Textual Amendments

- F19** S. 19(1)(2) substituted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 58**; S.I. 2001/3234, **art. 2**
- F20** Words in s. 19(1)(a) substituted (28.3.2009 for specified purposes) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 13 para. 3(2)**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- F21** Words in s. 19(3) substituted (28.3.2009 for specified purposes) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 13 para. 3(3)**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- F22** Words in s. 19(4) substituted (28.3.2009 for specified purposes) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 13 para. 3(4)**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- F23** S. 19(7) repealed (28.3.2009 for specified purposes) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 17**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)

Marginal Citations

- M7** 1981 c. 55.

20 Content and effect of protection orders.

- (1) A protection order shall name the person on whose application it was made (in this Part of this Act referred to as “the responsible person”) and, wherever it is reasonably practicable to do so, the order shall also name the child to whom it relates; and where it does not name that child it shall describe him as clearly as possible.

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- (2) Where a protection order is in force with respect to a child—
- (a) it shall be the duty of any person who is in a position to do so to comply with any request to produce the child to the responsible person; and
 - (b) the order authorises—
 - (i) the removal of the child at any time to accommodation provided by or on behalf of the responsible person and his being kept there; or
 - (ii) the prevention of the child's removal from any service hospital, or other place, in which he was being accommodated immediately before the making of the order.
- (3) Where a protection order is in force with respect to a child, the responsible person—
- (a) shall only exercise a power given by virtue of subsection (2)(b) above in order to safeguard the welfare of the child;
 - (b) shall comply with the requirements of any regulations made for the purposes of this subsection; and
 - (c) subject to paragraphs (a) and (b) above, shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the duration of the order).
- (4) The [^{F24}officer][^{F24}judge advocate] making a protection order may give such directions (if any) as he considers appropriate with respect to all or any of the following matters—
- (a) whether the responsible person, in exercising any power under the order, should be accompanied by a person having a medical, nursing or other appropriate qualification;
 - (b) any contact which is, or is not, to be allowed between the child and any named person; and
 - (c) any medical or psychiatric examination or other assessment of the child which is, or is not, to be carried out;
- but, where a direction is given under paragraph (c) above for the carrying out of an examination or other assessment, the child may, if he is of sufficient understanding to make an informed decision, refuse to submit to the examination or assessment.
- (5) Where a protection order is in force with respect to a child and—
- (a) the responsible person has exercised the power given by subsection (2)(b)(i) above but it appears to him that it is safe for the child to be returned; or
 - (b) the responsible person has exercised the power given by subsection (2)(b)(ii) above 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.
- (6) Where he is required by subsection (5) above to return the child, the responsible person 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 responsible person (with the agreement of [^{F25}the officer having jurisdiction][^{F25}a judge advocate]) considers appropriate.

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- (7) Where the responsible person has been required by subsection (5) above 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 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.
- (8) Where a protection order has been made with respect to a child, the responsible person shall, subject to any direction given under subsection (4) above, allow the child reasonable contact with—
- (a) his parents;
 - (b) any other person who has parental responsibility for him;
 - (c) any other person with whom he was residing immediately before the making of the application for the order;
 - (d) any person in whose favour a contact order is in force with respect to him;
 - (e) any person who is allowed to have contact with the child by virtue of an order under section 34 of the ^{M8}Children Act 1989 [^{F26}or Article 53 of the Children (Northern Ireland) Order 1995]; and
 - (f) any person acting on behalf of any of those persons.
- (9)
- [^{F27}(9) A person subject to service law, or a civilian subject to service discipline, commits an offence if he—
- (a) intentionally obstructs any person exercising the power under subsection (2) (b) above to remove, or prevent the removal of, a child; or
 - (b) intentionally fails to comply with an exclusion requirement included in a protection order by virtue of section 20A below.
- (9A) A person guilty of an offence under this section is liable to any punishment mentioned in rows 5 to 12 of the Table in section 164 of the Armed Forces Act 2006.
- (9B) For the purposes of determining the court's powers when sentencing a civilian offender (within the meaning of Part 1 of Schedule 3 to the Armed Forces Act 2006) for an offence under this section, subsection (9A) has effect as if the reference to rows 5 to 12 were to rows 2 to 7.
- (9C) For the purposes of determining the court's powers when sentencing an offender to whom Part 2 of that Schedule applies (ex-servicemen etc) for an offence under this section, subsection (9A) has effect as if the reference to rows 5 to 12 were to rows 5 to 10.]
- (11) Any directions given under subsection (4) above shall be set out in the protection order, and—
- (a) the power to give such directions shall be exercisable subject to, and in accordance with, any provision made by regulations; and
 - (b) any direction given in the exercise of that power may be varied or revoked at any time subject to, and in accordance with, any provision so made.

Textual Amendments

F24 Words in s. 20(4) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 4\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

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- F25** Words in s. 20(6)(b)(iii) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 4\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F26** Words in s. 20(9)(e) added (4.11.1996) by S.I. 1995/756, [art. 14\(4\)](#); S.R. 1996/297, [art. 3](#)
- F27** S. 20(9)-(9C) substituted for s. 20(9)(10) (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 4\(4\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

Marginal Citations

- M8** 1989 c. 41.
M9 1955 c. 18.
M10 1955 c. 19.

[^{F28}20A Power to include exclusion requirement in protection order

- (1) Where—
- (a) a judge advocate (on being satisfied as mentioned in section 19(3)(a), (b) or (c)) makes a protection order with respect to a child, and
 - (b) conditions A, B and C are satisfied,
- the judge advocate may include an exclusion requirement in the protection order.
- (2) An exclusion requirement is any one or more of the following—
- (a) a provision requiring a person who is subject to service law or is a civilian subject to service discipline to leave relevant premises in which he is living with the child;
 - (b) a provision prohibiting a person who is subject to service law or is a civilian subject to service discipline from entering relevant premises in which the child lives;
 - (c) a provision excluding such a person from a defined area in which relevant premises in which the child lives are situated.
- (3) Condition A is that there is reasonable cause to believe that, if the person to whom the exclusion requirement would relate (“the relevant person”) is excluded from relevant premises in which the child lives—
- (a) in the case of an order made on the ground mentioned in section 19(3)(a) or (b), the child will not be likely to suffer significant harm, even though not removed as mentioned in section 19(3)(a) or not remaining as mentioned in section 19(3)(b);
 - (b) in the case of an order made on the ground mentioned in section 19(3)(c), the enquiries referred to there will cease to be frustrated.
- (4) Condition B is that a person (other than the relevant person) living in the relevant premises in which the child lives, whether or not he is the child's parent—
- (a) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him; and
 - (b) consents to the inclusion of the exclusion requirement.
- (5) Condition C is that the judge advocate is satisfied—
- (a) that, throughout the duration of the requirement, alternative accommodation which the judge advocate considers appropriate will be available to the relevant person; and

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- (b) where the relevant person is subject to service law, that the relevant person's commanding officer also considers that that accommodation is appropriate.
- (6) If, while a protection order containing an exclusion requirement is in force, the child has in pursuance of the order been removed from the relevant premises to which the requirement relates to other accommodation for a continuous period of more than 24 hours, the order shall cease to have effect so far as it imposes the exclusion requirement.
- (7) In this section “relevant premises” means premises occupied as a residence by a person subject to service law or a civilian subject to service discipline.
- (8) Who is the relevant person's “commanding officer” for the purposes of subsection (5) (b) shall be determined by or under regulations made by the Defence Council.]

Textual Amendments

F28 S. 20A inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 5](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#))

21 Duration of protection orders.

- (1) A protection order shall specify the period for which it is to have effect, [^{F29}being — [^{F29}which must be a period of not more than 28 days beginning with the date of the order.]
- (2) Where a protection order has been made with respect to a child and it appears at any time to [^{F30}the officer having jurisdiction][^{F30}a judge advocate]—
 - (a) that the period for which the order is to have effect is less than the maximum period [^{F31}applicable under subsection (1) above in relation to a protection order made by that officer][^{F31}permitted by subsection (1) above]; and
 - (b) that there is reasonable cause to believe that the child concerned is likely to suffer significant harm if the effect of the order is not extended or further extended,

[^{F32}that officer][^{F32}the judge advocate] may by an order (in this Part of this Act referred to as an “extension order”) continue the effect of the protection order until a time no later after the making of the protection order than the end of that maximum period.
- (3) No extension order shall be made without affording—
 - (a) the child to whom the protection order relates,
 - (b) his parents,
 - (c) any other person who has parental responsibility for him, and
 - (d) any other person with whom he was residing immediately before the making of the application for the protection order,

an opportunity to make representations to the [^{F33}officer][^{F33}judge advocate] by whom the case is being considered, except where it appears to that [^{F33}officer][^{F33}judge advocate] that it would be undesirable to do so in the interests of the child or that it would be impracticable, or would cause unnecessary delay, to communicate with any parent of the child or with any such other person as is mentioned in paragraph (c) or paragraph (d) above.

Status: Point in time view as at 28/03/2009.

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- (4) Where a child is removed under a protection order to accommodation in the United Kingdom—
- (a) the order shall not authorise his being kept in that accommodation after the end of the period of twenty-four hours beginning with his arrival in that accommodation; but
 - (b) the powers conferred by the ^{M11}Children Act 1989, the [^{F34}Children (Scotland) Act 1995] and the [^{F35}Children (Northern Ireland) Order 1995] shall be exercisable with respect to the child as if everything which was relevant to the question of whether a protection order should be made were relevant, notwithstanding that the child has been removed under the order, to the question whether the conditions for the exercise of any of those powers are satisfied.
- (5) Without prejudice to the power to vary or revoke any direction previously given under subsection (4) of section 20 above, [^{F36}an officer][^{F36}a judge advocate] making an extension order may exercise the power to give such directions and subsection (11) of that section shall have effect accordingly.

Textual Amendments

- F29** Words in s. 21(1) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 6\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F30** Words in s. 21(2) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 6\(3\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F31** Words in s. 21(2)(a) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 6\(3\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F32** Words in s. 21(2) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 6\(3\)\(c\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F33** Words in s. 21(3) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 6\(4\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F34** Words in s. 21(4) substituted (1.4.1997) by 1995 c. 36, s. 105(4), [Sch. 4 para. 54\(4\)](#) (with s. 103(1)); S.I. 1996/3201, [art. 3\(7\)](#)
- F35** Words in s. 21(4)(b) substituted (4.11.1996) by S.I. 1995/756, [art. 14\(5\)](#); S.R. 1996/297, [art. 3](#)
- F36** Words in s. 21(5) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 6\(5\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

Marginal Citations

- M11** 1989 c. 41.

22 Review and discharge of protection orders.

- (1) Subsections (2) to (4) below apply in relation to a protection order in any case where—
- (a) the order as originally made has effect for a period exceeding eight days; or
 - (b) by an extension order the effect of the protection order is continued for a period exceeding seven days beginning with the date of the extension order.

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- (2) If, during the period of six days beginning with the date of the protection order or during any other period of six days while the protection order continues to have effect, —
- (a) no extension order is made continuing the effect of the protection order, and
 - (b) no review of the protection order is carried out in accordance with subsection (4) below,
- then, subject to subsection (3) below, on the day immediately following the end of that six-day period a [^{F37}superior officer][^{F37}judge advocate] shall carry out a review of the protection order in accordance with subsection (4) below.
- (3) Subsection (2) above does not require a review of a protection order to be carried out on the day following any six-day period if—
- (a) the order ceases to have effect at the end of that period or on that following day; or
 - (b) on that following day an extension order is made continuing the effect of the protection order.
- (4) A [^{F38}superior officer][^{F38}judge advocate] carrying out a review of a protection order shall [^{F39}consider whether—
- (b) [^{F39}consider whether, if the order were discharged and—
 - (a) (where the power under section 20(2)(b)(i) has been exercised) if the child were returned by the responsible person, or
 - (b) (where the power under section 20(2)(b)(ii) has been exercised) if the child were allowed to be removed from the place in which he was being accommodated immediately before the making of the order,]
- any of the conditions in paragraphs (a) to (c) of subsection (3) of section 19 above would be satisfied; and if in his opinion none of those conditions would be satisfied he shall discharge the order.
- (5) Without prejudice to the possibility of the discharge of a protection order on a review under the preceding provisions of this section, if an application is made by—
- (a) the responsible person,
 - (b) the child to whom the order relates,
 - (c) a parent of his,
 - (d) any other person who has parental responsibility for him, or
 - (e) any other person with whom he was residing immediately before the making of the application for the order,
- then, in such circumstances and subject to such conditions as may be prescribed by regulations, [^{F40}the officer having jurisdiction][^{F40}a judge advocate] may discharge the order.
- [^{F41}(5A) On the application of the person to whom an exclusion requirement contained in a protection order relates, a judge advocate may, in such circumstances and subject to such conditions as may be prescribed by regulations, vary the exclusion requirement or discharge the order so far as it imposes the exclusion requirement.]
- (6) Regulations may make provision as to the procedure to be followed on a review of a protection order (including provision as to the making of representations by any persons).

Status: Point in time view as at 28/03/2009.

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- (7) Without prejudice to the power to vary or revoke any direction previously given under subsection (4) of section 20 above, if, on carrying out a review of a protection order or on an application under subsection (5) above, the ^{F42}officer^{F42}judge advocate] dealing with the matter does not discharge the order, he may exercise the power to give directions under subsection (4) of section 20 above and subsection (11) of that section shall have effect accordingly.

Textual Amendments

- F37** Words in s. 22(2) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 13 para. 7\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F38** Words in s. 22(4) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 13 para. 7\(3\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F39** Words in s. 22(4) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 13 para. 7\(3\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F40** Words in s. 22(5) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 13 para. 7\(4\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F41** S. 22(5A) inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 13 para. 7\(5\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F42** Words in s. 22(7) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 13 para. 7\(6\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

^{F43}22A Removal and accommodation of children by service police in emergency

- (1) Where a service policeman has reasonable cause to believe that a relevant child would otherwise be likely to suffer significant harm, he may, if authorised—
- remove the child to suitable accommodation and keep him there; or
 - take such steps as are reasonable to ensure that the child's removal from any service hospital, or other place, in which he is then being accommodated is prevented.
- (2) In this section, a child with respect to whom a service policeman has exercised the power under subsection (1) is referred to as having been taken into service police protection.
- (3) As soon as is reasonably practicable after taking a child into service police protection, the service policeman concerned shall—
- inform the appropriate service police officer of the steps that have been and are proposed to be taken under this Part of this Act with respect to the child and the reasons for taking them;
 - give details to the appropriate service police officer of the place at which the child is being accommodated;
 - inform the child (if he appears capable of understanding)—
 - of the steps that have been taken with respect to him under this section and of the reasons for taking them; and
 - of the further steps that may be taken with respect to him under this Part of this Act;

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- (d) take such steps as are reasonably practicable to discover the wishes and feelings of the child;
 - (e) secure that the case is inquired into by the appropriate service police officer;
 - (f) secure that the child is moved to accommodation approved for the purpose by the appropriate service police officer (unless that officer approves the child's remaining where he is currently being accommodated);
 - (g) take such steps as are reasonably practicable to inform—
 - (i) the child's parents,
 - (ii) every person who is not a parent of the child but has parental responsibility for him, and
 - (iii) any other person with whom the child was residing immediately before being taken into service police protection,
 of the steps that he has taken under this section with respect to the child, the reasons for taking them and the further steps that may be taken with respect to him under this Part of this Act.
- (4) On completing any inquiry under subsection (3)(e) the officer conducting it shall release the child from service police protection unless he considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.
- (5) No child may be kept in service police protection for more than 72 hours.
- (6) While a child is being kept in service police protection—
- (a) the appropriate service police officer shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be kept in service police protection); but
 - (b) neither he nor the service policeman who took the child into service police protection has any parental responsibility for him.
- (7) Where a child has been taken into service police protection, the appropriate service police officer shall allow—
- (a) the child's parents,
 - (b) any person who is not a parent of the child but has parental responsibility for him,
 - (c) any person with whom the child was residing immediately before he was taken into service police protection,
 - (d) any person in whose favour a contact order is in force with respect to the child, and
 - (e) any person acting on behalf of any of those persons,
- to have such contact (if any) with the child as, in the opinion of the appropriate service police officer, is both reasonable and in the child's best interests.
- (8) In this section—
- “authorised”, in relation to a service policeman, means authorised, by an authorising service police officer and in accordance with regulations, to exercise the power under subsection (1) in the case in question;
 - “an authorising service police officer”, and “the appropriate service police officer” have the meanings given by regulations;

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“relevant child” means a child who falls within paragraph (a) or (b) of section 19(1) above;

“service policeman” has the same meaning as in the Armed Forces Act 1996.]

Textual Amendments

F43 S. 22A inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 8](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#))

23 Interpretation of Part III.

(1) In this Part of this Act—

“accommodation ” ^{F44}means any service hospital or other suitable place the occupier of which is willing temporarily to receive the child to whom a protection order relates,]^{F44}, in relation to a child to whom a protection order relates, means any service hospital or other suitable place the occupier of which is willing temporarily to receive the child,] whether situated in the United Kingdom, the country or territory where the child resides or elsewhere;

“assessment order ” has the meaning given by section 17 above;

“child ” means a person under the age of eighteen;

^{F45}“civilian in a corresponding position ” has the same meaning as in section 13 of the ^{M12}Armed Forces Act 1981;]^{F45}“civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006;]

“contact order ” has the meaning ^{F46}—

(a) except in relation to an order made in Scotland,] given by section 8(1) of the ^{M13}Children Act 1989 ^{F47}or Article 8(1) of the Children (Northern Ireland) Order 1995 as the case may be]; ^{F48}; and

(b) in relation to an order there made, given by section 11(2)(d) of the Children (Scotland) Act 1995.]

^{F49}“exclusion requirement” has the meaning given by section 20A above;]

^{F50}“extension order ” has the meaning given by section 21(2) above;]

“harm” and “significant harm” have the same meanings as in the Children Act 1989;

^{F51}“officer having jurisdiction ” and “superior officer ” shall be construed in accordance with subsection (2) below;]^{F51}“judge advocate” has the same meaning as in the Armed Forces Act 2006;]

“parental responsibility ” ^{F52}—

(a) except in relation to Scotland,] has the meaning given by section 3 of the Children Act 1989 ^{F53}or Article 6 of the Children (Northern Ireland) Order 1995]^{F54}; and

(b) in relation to Scotland, shall be construed as a reference to “parental responsibilities ” within the meaning given by section 1(3) of the Children (Scotland) Act 1995;]

“parents ” shall be construed in accordance with subsection (3) below;

“protection order ” has the meaning given by section 19 above;

“regulations ” means regulations ^{F55}(except in section 20A(8))] made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament;

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“the responsible person”, in relation to a protection order, has the meaning given by section 20(1) above;

“service hospital” means a military, air-force or naval unit or establishment or a ship at or in which medical or surgical treatment is provided for persons subject to service law; and

[^{F56}“service law” means military law, air-force law or the 1957 Act.] [^{F56}“subject to service law” has the same meaning as in the Armed Forces Act 2006.]

[^{F57}(1A) Section 164(2) and (3) of the Armed Forces Act 2006 apply in relation to section 18(8A) and 20(9A) of this Act.]

(2) [^{F58}Regulations may make provision for determining—

(a) who, in relation to an assessment order or a protection order, is at any time the officer having jurisdiction for the purposes of any of the provisions of this Part of this Act; and

(b) who, in relation to a protection order, is at any time a superior officer for the purposes of sections 21 and 22 above.]

(3) Any reference in this Part of this Act to the parents of a child shall be construed without regard to whether they are or have been married to each other at any time; and this subsection is without prejudice to—

(a) the operation of section 1 of the ^{M14}Family Law Reform Act 1987 as part of the law of England and Wales or section 1 of the ^{M15}Law Reform (Parent and Child) (Scotland) Act 1986 as part of the law of Scotland; and

(b) any enactment or rule of law relating to adoption or legitimation.

(4) Any power under this Part of this Act to make regulations may make different provision for different cases and for different purposes.

Textual Amendments

- F44** Words in s. 23(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 9\(2\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F45** Words in s. 23(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 9\(2\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F46** Hyphen and sub-para. (a) inserted (1.11.1996) in the definition in s. 23(1) by 1995 c. 36, s. 105(4), [Sch. 4 para. 54\(5\)\(a\)\(i\)](#) (with s. 103(1)); S.I. 1996/2203, art. 3, [Sch.](#)
- F47** S. 23(1): Words in definition of “contact order” added (4.11.1996) by S.I. 1995/756, [art. 14\(6\)\(a\)](#); S.R. 1996/297, [art. 3](#)
- F48** Semicolon, word and sub-para. (b) inserted (1.11.1996) in the definition in s. 23(1) by 1995 c. 36, s. 105(4), [Sch. 4 para. 54\(5\)\(a\)\(ii\)](#) (with s. 103(1)); S.I. 1996/2203, art. 3, [Sch.](#)
- F49** Words in s. 23(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 9\(2\)\(c\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F50** Words in s. 23(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 9\(2\)\(d\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F51** Words in s. 23(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 13 para. 9\(2\)\(e\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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- F52** Hyphen and sub-para. (a) inserted (1.11.1996) in the definition in s. 23(1) by 1995 c. 36, s. 105(4), **Sch. 4 para. 54(5)(b)(i)** (with s. 103(1)); S.I. 1996/2203, art. 3, **Sch.**
- F53** S. 23(1): Words in the definition “parental responsibility” added (4.11.1996) by S.I. 1995/756, **art. 14(6)(b)**; S.R. 1996/297, **art. 3**
- F54** Semicolon, word and sub-para. (b) inserted (1.11.1996) in the definition in s. 23(1) by 1995 c. 36, s. 105(4), **Sch. 4 para. 54(5)(b)(ii)** (with s. 103(1)); S.I. 1996/2203, art. 3, **Sch.**
- F55** Words in s. 23(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 13 para. 9(2)(f)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F56** Words in s. 23(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 13 para. 9(2)(g)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F57** S. 23(1A) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 13 para. 9(3)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F58** S. 23(2) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), Sch. 13 para. 9(4), **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

- M12** 1981 c. 55.
M13 1989 c. 41.
M14 1987 c. 42.
M15 1986 c. 9.

Status:

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Armed Forces Act 1991, Part III is up to date with all changes known to be in force on or before 30 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.