



Children Act 2004

2004 CHAPTER 31

PART 4

ADVISORY AND SUPPORT SERVICES FOR FAMILY PROCEEDINGS

CAFCASS functions in Wales

35 Functions of the Assembly relating to family proceedings

- (1) In respect of family proceedings in which the welfare of children ordinarily resident in Wales is or may be in question, it is a function of the Assembly to—
 - (a) safeguard and promote the welfare of the children;
 - (b) give advice to any court about any application made to it in such proceedings;
 - (c) make provision for the children to be represented in such proceedings;
 - (d) provide information, advice and other support for the children and their families.
- (2) The Assembly must also make provision for the performance of the functions conferred on Welsh family proceedings officers by virtue of any enactment (whether or not they are exercisable for the purposes of subsection (1)).
- (3) In subsection (1), “family proceedings” has the meaning given by section 12 of the Criminal Justice and Court Services Act 2000 (c. 43).
- (4) In this Part, “Welsh family proceedings officer” means—
 - (a) any member of the staff of the Assembly appointed to exercise the functions of a Welsh family proceedings officer; and
 - (b) any other individual exercising functions of a Welsh family proceedings officer by virtue of section 36(2) or (4).

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Cross Heading: CAF/CASS functions in Wales. (See end of Document for details)

36 Ancillary powers of the Assembly

- (1) The Assembly may make arrangements with organisations under which the organisations perform the functions of the Assembly under section 35 on its behalf.
- (2) Arrangements under subsection (1) may provide for the organisations to designate individuals who may perform functions of Welsh family proceedings officers.
- (3) The Assembly may only make an arrangement under subsection (1) if it is of the opinion—
 - (a) that the functions in question will be performed efficiently and to the required standard; and
 - (b) that the arrangement represents good value for money.
- (4) The Assembly may make arrangements with individuals under which they may perform functions of Welsh family proceedings officers.
- (5) The Assembly may make arrangements with an organisation or individual under which staff of the Assembly engaged in the exercise of its functions under section 35 may work for the organisation or individual.
- (6) The Assembly may make arrangements with an organisation or individual under which any services provided by the Assembly's staff to the Assembly in the exercise of its functions under section 35 are also made available to the organisation or individual.
- (7) The Assembly may charge for anything done under arrangements under subsection (5) and (6).
- (8) In this section, references to organisations include public bodies and private or voluntary organisations.

37 Welsh family proceedings officers

- (1) The Assembly may authorise a Welsh family proceedings officer of a description prescribed in regulations made by the Secretary of State—
 - (a) to conduct litigation in relation to any proceedings in any court,
 - (b) to exercise a right of audience in any proceedings in any court,in the exercise of his functions.
- (2) A Welsh family proceedings officer exercising a right to conduct litigation by virtue of subsection (1)(a) who would otherwise have such a right by virtue of [F¹the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to that activity] is to be treated as having acquired that right solely by virtue of this section.
- (3) A Welsh family proceedings officer exercising a right of audience by virtue of subsection (1)(b) who would otherwise have such a right by virtue of [F²the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to that activity] is to be treated as having acquired that right solely by virtue of this section.
- (4) A Welsh family proceedings officer may, subject to rules of court, be cross-examined in any proceedings to the same extent as any witness.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Cross Heading: CAFCASS functions in Wales. (See end of Document for details)

- (5) But a Welsh family proceedings officer may not be cross-examined merely because he is exercising a right to conduct litigation or a right of audience granted in accordance with this section.
- (6) In this section, “right to conduct litigation” and “right of audience” have the same meanings as in section 119 of the Courts and Legal Services Act 1990.

Textual Amendments

- F1** Words in s. 37(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 149\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2](#) (with art. 9)
- F2** Words in s. 37(3) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 149\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2](#) (with art. 9)

38 Inspections

F3

Textual Amendments

- F3** S. 38 repealed (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 156, 184, 188, [Sch. 18 Pt. 5](#); S.I. 2008/1429, [art. 3\(2\)](#), [Sch. Pt. 2](#)

39 Protection of children

- (1) The Protection of Children Act 1999 (c. 14) (“the 1999 Act”) shall have effect as if the Assembly, in performing its functions under sections 35 and 36, were a child care organisation within the meaning of that Act.
- (2) Arrangements which the Assembly makes with an organisation under section 36(1) must provide that, before selecting an individual to be employed under the arrangements in a child care position, the organisation—
- (a) must ascertain whether the individual is included in any of the lists mentioned in section 7(1) of the 1999 Act, and
 - (b) if he is included in any of those lists, must not select him for that employment.
- (3) Such arrangements must provide that, if at any time the organisation has power to refer an individual who is or has been employed in a child care position under the arrangements to the Secretary of State under section 2 of the 1999 Act (inclusion in list on reference following disciplinary actions etc), the organisation must so refer him.
- (4) In this section, “child care position” and “employment” have the same meanings as in the 1999 Act.

40 Advisory and support services for family proceedings: supplementary

Schedule 3 (which makes supplementary and consequential provision relating to this Part, including provision relating to functions of Welsh family proceedings officers) has effect.

Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Cross Heading: CAFCASS functions in Wales. (See end of Document for details)

41 Sharing of information

- (1) The Assembly and the Children and Family Court Advisory and Support Service may provide any information to each other for the purposes of their respective functions under this Part and Part 1 of the Criminal Justice and Court Services Act 2000 (c. 43).
- (2) A Welsh family proceedings officer and an officer of the Service (within the meaning given by section 11(3) of that Act) may provide any information to each other for the purposes of any of their respective functions.

Changes to legislation:

There are currently no known outstanding effects for the Children Act 2004, Cross Heading: CAFCASS functions in Wales.