



Children and Adoption Act 2006

2006 CHAPTER 20

PART 1

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS

Contact with children

4 Enforcement orders

(1) After section 11I of the Children Act 1989 (as inserted by section 3) insert—

“11J Enforcement orders

- (1) This section applies if a contact order with respect to a child has been made.
- (2) If the court is satisfied beyond reasonable doubt that a person has failed to comply with the contact order, it may make an order (an “enforcement order”) imposing on the person an unpaid work requirement.
- (3) But the court may not make an enforcement order if it is satisfied that the person had a reasonable excuse for failing to comply with the contact order.
- (4) The burden of proof as to the matter mentioned in subsection (3) lies on the person claiming to have had a reasonable excuse, and the standard of proof is the balance of probabilities.
- (5) The court may make an enforcement order in relation to the contact order only on the application of—
 - (a) the person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;
 - (b) the person whose contact with the child concerned is provided for in the contact order;
 - (c) any individual subject to a condition under section 11(7)(b) or a contact activity condition imposed by the contact order; or

*Changes to legislation: There are currently no known outstanding effects for the
 Children and Adoption Act 2006, Section 4. (See end of Document for details)*

- (d) the child concerned.
- (6) Where the person proposing to apply for an enforcement order in relation to a contact order is the child concerned, the child must obtain the leave of the court before making such an application.
- (7) The court may grant leave to the child concerned only if it is satisfied that he has sufficient understanding to make the proposed application.
- (8) Subsection (2) has effect subject to the restrictions in sections 11K and 11L.
- (9) The court may suspend an enforcement order for such period as it thinks fit.
- (10) Nothing in this section prevents a court from making more than one enforcement order in relation to the same person on the same occasion.
- (11) Proceedings in which any question of making an enforcement order, or any other question with respect to such an order, arises are to be regarded for the purposes of section 11(1) and (2) as proceedings in which a question arises with respect to a section 8 order.
- (12) In Schedule A1—
 - (a) Part 1 makes provision as regards an unpaid work requirement;
 - (b) Part 2 makes provision in relation to the revocation and amendment of enforcement orders and failure to comply with such orders.
- (13) This section is without prejudice to section 63(3) of the Magistrates' Courts Act 1980 as it applies in relation to contact orders.

11K Enforcement orders: further provision

- (1) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order unless it is satisfied that before the failure occurred the person had been given (in accordance with rules of court) a copy of, or otherwise informed of the terms of—
 - (a) in the case of a failure to comply with a contact order that was varied before the failure occurred, a notice under section 11I relating to the order varying the contact order or, where more than one such order has been made, the last order preceding the failure in question;
 - (b) in any other case, a notice under section 11I relating to the contact order.
- (2) A court may not make an enforcement order against a person in respect of any failure to comply with a contact order occurring before the person attained the age of 18.
- (3) A court may not make an enforcement order against a person in respect of a failure to comply with a contact order that is an excepted order (within the meaning given by section 11B(4)).
- (4) A court may not make an enforcement order against a person unless the person is habitually resident in England and Wales; and an enforcement order ceases to have effect if the person subject to the order ceases to be habitually resident in England and Wales.

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11L Enforcement orders: making

- (1) Before making an enforcement order as regards a person in breach of a contact order, the court must be satisfied that—
 - (a) making the enforcement order proposed is necessary to secure the person's compliance with the contact order or any contact order that has effect in its place;
 - (b) the likely effect on the person of the enforcement order proposed to be made is proportionate to the seriousness of the breach of the contact order.
- (2) Before making an enforcement order, the court must satisfy itself that provision for the person to work under an unpaid work requirement imposed by an enforcement order can be made in the local justice area in which the person in breach resides or will reside.
- (3) Before making an enforcement order as regards a person in breach of a contact order, the court must obtain and consider information about the person and the likely effect of the enforcement order on him.
- (4) Information about the likely effect of the enforcement order may, in particular, include information as to—
 - (a) any conflict with the person's religious beliefs;
 - (b) any interference with the times (if any) at which he normally works or attends an educational establishment.
- (5) A court that proposes to make an enforcement order may ask an officer of the Service or a Welsh family proceedings officer to provide the court with information as to the matters in subsections (2) and (3).
- (6) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.
- (7) In making an enforcement order in relation to a contact order, a court must take into account the welfare of the child who is the subject of the contact order.

11M Enforcement orders: monitoring

- (1) On making an enforcement order in relation to a person, the court is to ask an officer of the Service or a Welsh family proceedings officer—
 - (a) to monitor, or arrange for the monitoring of, the person's compliance with the unpaid work requirement imposed by the order;
 - (b) to report to the court if a report under paragraph 8 of Schedule A1 is made in relation to the person;
 - (c) to report to the court on such other matters relating to the person's compliance as may be specified in the request;
 - (d) to report to the court if the person is, or becomes, unsuitable to perform work under the requirement.
- (2) It shall be the duty of the officer of the Service or Welsh family proceedings officer to comply with any request under this section.

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11N Enforcement orders: warning notices

Where the court makes an enforcement order, it is to attach to the order a notice warning of the consequences of failing to comply with the order.”

- (2) Schedule 1 (which contains a Schedule to be inserted before Schedule 1 to the Children Act 1989 (c. 41)) has effect.

Commencement Information

- II** S. 4 in force at 8.12.2008 by [S.I. 2008/2870](#), [art. 2\(2\)\(c\)](#)

Changes to legislation:

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