



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 2

#### FAMILY JUSTICE

#### **10 Family mediation information and assessment meetings**

- (1) Before making a relevant family application, a person must attend a family mediation information and assessment meeting.
- (2) Family Procedure Rules—
  - (a) may provide for subsection (1) not to apply in circumstances specified in the Rules,
  - (b) may make provision about convening a family mediation information and assessment meeting, or about the conduct of such a meeting,
  - (c) may make provision for the court not to issue, or otherwise deal with, an application if, in contravention of subsection (1), the applicant has not attended a family mediation information and assessment meeting, and
  - (d) may provide for a determination as to whether an applicant has contravened subsection (1) to be made after considering only evidence of a description specified in the Rules.
- (3) In this section—
  - “the court” means the High Court or the family court;
  - “family mediation information and assessment meeting”, in relation to a relevant family application, means a meeting held for the purpose of enabling information to be provided about—
    - (a) mediation of disputes of the kinds to which relevant family applications relate,
    - (b) ways in which disputes of those kinds may be resolved otherwise than by the court, and

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- (c) the suitability of mediation, or of any such other way of resolving disputes, for trying to resolve any dispute to which the particular application relates;  
 “family proceedings” has the same meaning as in section 75 of the Courts Act 2003;  
 “relevant family application” means an application that—
- (a) is made to the court in, or to initiate, family proceedings, and
  - (b) is of a description specified in Family Procedure Rules.
- (4) This section is without prejudice to sections 75 and 76 of the Courts Act 2003 (power to make Family Procedure Rules).

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**Commencement Information**

- II** S. 10 in force at 22.4.2014 by S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)

**11 Welfare of the child: parental involvement**

- (1) Section 1 of the Children Act 1989 (welfare of the child) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) A court, in the circumstances mentioned in subsection (4)(a) or (7), is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child's welfare.
- (2B) In subsection (2A) “involvement” means involvement of some kind, either direct or indirect, but not any particular division of a child's time.”
- (3) After subsection (5) insert—
- “(6) In subsection (2A) “parent” means parent of the child concerned; and, for the purposes of that subsection, a parent of the child concerned—
- (a) is within this paragraph if that parent can be involved in the child's life in a way that does not put the child at risk of suffering harm; and
  - (b) is to be treated as being within paragraph (a) unless there is some evidence before the court in the particular proceedings to suggest that involvement of that parent in the child's life would put the child at risk of suffering harm whatever the form of the involvement.
- (7) The circumstances referred to are that the court is considering whether to make an order under section 4(1)(c) or (2A) or 4ZA(1)(c) or (5) (parental responsibility of parent other than mother).”

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**Modifications etc. (not altering text)**

- C1** S. 11 applied (N.I.) (10.7.2014) by [The Police Rehabilitation and Retraining Trust Regulations \(Northern Ireland\) 2014 \(S.R. 2014/163\)](#), regs. 1, **7(1)**

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#### **Commencement Information**

**12** S. 11 in force at 22.10.2014 by [S.I. 2014/2749](#), [art. 3](#) (with [art. 4](#))

### **12 Child arrangements orders**

- (1) Section 8(1) of the Children Act 1989 is amended as follows.
- (2) Omit the definitions of “contact order” and “residence order”.
- (3) After “In this Act—” insert—
  - ““child arrangements order” means an order regulating arrangements relating to any of the following—
    - (a) with whom a child is to live, spend time or otherwise have contact, and
    - (b) when a child is to live, spend time or otherwise have contact with any person;”.
- (4) Schedule 2 (amendments relating to child arrangements orders) has effect.

#### **Commencement Information**

**13** [S. 12](#) in force at 22.4.2014 by [S.I. 2014/889](#), [art. 4\(b\)](#) (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)

### **13 Control of expert evidence, and of assessments, in children proceedings**

- (1) A person may not without the permission of the court instruct a person to provide expert evidence for use in children proceedings.
- (2) Where in contravention of subsection (1) a person is instructed to provide expert evidence, evidence resulting from the instructions is inadmissible in children proceedings unless the court rules that it is admissible.
- (3) A person may not without the permission of the court cause a child to be medically or psychiatrically examined or otherwise assessed for the purposes of the provision of expert evidence in children proceedings.
- (4) Where in contravention of subsection (3) a child is medically or psychiatrically examined or otherwise assessed, evidence resulting from the examination or other assessment is inadmissible in children proceedings unless the court rules that it is admissible.
- (5) In children proceedings, a person may not without the permission of the court put expert evidence (in any form) before the court.
- (6) The court may give permission as mentioned in subsection (1), (3) or (5) only if the court is of the opinion that the expert evidence is necessary to assist the court to resolve the proceedings justly.
- (7) When deciding whether to give permission as mentioned in subsection (1), (3) or (5) the court is to have regard in particular to—

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- (a) any impact which giving permission would be likely to have on the welfare of the children concerned, including in the case of permission as mentioned in subsection (3) any impact which any examination or other assessment would be likely to have on the welfare of the child who would be examined or otherwise assessed,
  - (b) the issues to which the expert evidence would relate,
  - (c) the questions which the court would require the expert to answer,
  - (d) what other expert evidence is available (whether obtained before or after the start of proceedings),
  - (e) whether evidence could be given by another person on the matters on which the expert would give evidence,
  - (f) the impact which giving permission would be likely to have on the timetable for, and duration and conduct of, the proceedings,
  - (g) the cost of the expert evidence, and
  - (h) any matters prescribed by Family Procedure Rules.
- (8) References in this section to providing expert evidence, or to putting expert evidence before a court, do not include references to—
- (a) the provision or giving of evidence—
    - (i) by a person who is a member of the staff of a local authority or of an authorised applicant,
    - (ii) in proceedings to which the authority or authorised applicant is a party, and
    - (iii) in the course of the person's work for the authority or authorised applicant,
  - (b) the provision or giving of evidence—
    - (i) by a person within a description prescribed for the purposes of subsection (1) of section 94 of the Adoption and Children Act 2002 (suitability for adoption etc.), and
    - (ii) about the matters mentioned in that subsection,
  - (c) the provision or giving of evidence by an officer of the Children and Family Court Advisory and Support Service when acting in that capacity, or
  - (d) the provision or giving of evidence by a Welsh family proceedings officer (as defined by section 35(4) of the Children Act 2004) when acting in that capacity.
- (9) In this section—
- “authorised applicant” means—
    - (a) the National Society for the Prevention of Cruelty to Children, or
    - (b) a person authorised by an order under section 31 of the Children Act 1989 to bring proceedings under that section;
  - “child” means a person under the age of 18;
  - “children proceedings” has such meaning as may be prescribed by Family Procedure Rules;
  - “the court”, in relation to any children proceedings, means the court in which the proceedings are taking place;
  - “local authority”—
    - (a) in relation to England means—
      - (i) a county council,

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- (ii) a district council for an area for which there is no county council,
  - (iii) a London borough council,
  - (iv) the Common Council of the City of London, or
  - (v) the Council of the Isles of Scilly, and
- (b) in relation to Wales means a county council or a county borough council.
- (10) The preceding provisions of this section are without prejudice to sections 75 and 76 of the Courts Act 2003 (power to make Family Procedure Rules).
- (11) In section 38 of the Children Act 1989 (court's power to make interim care and supervision orders, and to give directions as to medical examination etc. of children) after subsection (7) insert—
- “(7A) A direction under subsection (6) to the effect that there is to be a medical or psychiatric examination or other assessment of the child may be given only if the court is of the opinion that the examination or other assessment is necessary to assist the court to resolve the proceedings justly.
- (7B) When deciding whether to give a direction under subsection (6) to that effect the court is to have regard in particular to—
- (a) any impact which any examination or other assessment would be likely to have on the welfare of the child, and any other impact which giving the direction would be likely to have on the welfare of the child,
  - (b) the issues with which the examination or other assessment would assist the court,
  - (c) the questions which the examination or other assessment would enable the court to answer,
  - (d) the evidence otherwise available,
  - (e) the impact which the direction would be likely to have on the timetable, duration and conduct of the proceedings,
  - (f) the cost of the examination or other assessment, and
  - (g) any matters prescribed by Family Procedure Rules.”

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**Commencement Information**

**I4** S. 13 in force at 22.4.2014 by S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)

**14 Care, supervision and other family proceedings: time limits and timetables**

- (1) The Children Act 1989 is amended as follows.
- (2) In section 32(1)(a) (timetable for dealing with application for care or supervision order) for “disposing of the application without delay; and” substitute “disposing of the application—
- (i) without delay, and
  - (ii) in any event within twenty-six weeks beginning with the day on which the application was issued; and”.
- (3) In section 32 (care and supervision orders) after subsection (2) insert—

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- “(3) A court, when drawing up a timetable under subsection (1)(a), must in particular have regard to—
- (a) the impact which the timetable would have on the welfare of the child to whom the application relates; and
  - (b) the impact which the timetable would have on the conduct of the proceedings.
- (4) A court, when revising a timetable drawn up under subsection (1)(a) or when making any decision which may give rise to a need to revise such a timetable (which does not include a decision under subsection (5)), must in particular have regard to—
- (a) the impact which any revision would have on the welfare of the child to whom the application relates; and
  - (b) the impact which any revision would have on the duration and conduct of the proceedings.
- (5) A court in which an application under this Part is proceeding may extend the period that is for the time being allowed under subsection (1)(a)(ii) in the case of the application, but may do so only if the court considers that the extension is necessary to enable the court to resolve the proceedings justly.
- (6) When deciding whether to grant an extension under subsection (5), a court must in particular have regard to—
- (a) the impact which any ensuing timetable revision would have on the welfare of the child to whom the application relates, and
  - (b) the impact which any ensuing timetable revision would have on the duration and conduct of the proceedings;
- and here “ensuing timetable revision” means any revision, of the timetable under subsection (1)(a) for the proceedings, which the court considers may ensue from the extension.
- (7) When deciding whether to grant an extension under subsection (5), a court is to take account of the following guidance: extensions are not to be granted routinely and are to be seen as requiring specific justification.
- (8) Each separate extension under subsection (5) is to end no more than eight weeks after the later of—
- (a) the end of the period being extended; and
  - (b) the end of the day on which the extension is granted.
- (9) The Lord Chancellor may by regulations amend subsection (1)(a)(ii), or the opening words of subsection (8), for the purpose of varying the period for the time being specified in that provision.
- (10) Rules of court may provide that a court—
- (a) when deciding whether to exercise the power under subsection (5), or
  - (b) when deciding how to exercise that power,
- must, or may or may not, have regard to matters specified in the rules, or must take account of any guidance set out in the rules.”
- (4) In section 38 (interim care and supervision orders)—
- (a) in subsection (4) (duration of interim order) omit—

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- (i) paragraph (a) (order may not last longer than 8 weeks), and
    - (ii) paragraph (b) (subsequent order generally may not last longer than 4 weeks),
  - (b) in that subsection after paragraph (d) insert—
    - “(da) in a case which falls within subsection (1)(b) and in which—
      - (i) no direction has been given under section 37(4), and
      - (ii) no application for a care order or supervision order has been made with respect to the child,the expiry of the period of eight weeks beginning with the date on which the order is made;”, and
  - (c) omit subsection (5) (interpretation of subsection (4)(b)).
- (5) In section 11(1) (section 8 orders: court's duty, in the light of rules made by virtue of section 11(2), to draw up timetable and give directions to implement it) for “rules made by virtue of subsection (2)” substitute “ provision in rules of court that is of the kind mentioned in subsection (2)(a) or (b) ”.
- (6) In section 14E(1) (special guardianship orders: court's duty, in the light of rules made by virtue of subsection (3), to draw up timetable and give directions to implement it) for “rules made by virtue of subsection (3)” substitute “ provision in rules of court that is of the kind mentioned in section 11(2)(a) or (b) ”.
- (7) In section 32(1) (care and supervision orders: court's duty, in the light of rules made by virtue of section 32(2), to draw up timetable and give directions to implement it)—
  - (a) for “hearing an application for an order under this Part” substitute “ in which an application for an order under this Part is proceeding ”, and
  - (b) for “rules made by virtue of subsection (2)” substitute “ provision in rules of court that is of the kind mentioned in subsection (2)(a) or (b) ”.
- (8) In section 109(1) of the Adoption and Children Act 2002 (adoption and placement orders: court's duty, in the light of rules made by virtue of section 109(2), to draw up timetable and give directions to implement it) for “rules made by virtue of subsection (2)” substitute “ provision in rules of court that is of the kind mentioned in subsection (2)(a) or (b) ”.

#### **Commencement Information**

**I5** S. 14 in force at 22.4.2014 by S.I. 2014/889, art. 4(c) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

## **15 Care plans**

(1 For section 31(3A) of the Children Act 1989 (no care order to be made until court has considered section 31A care plan) substitute—

“(3A) A court deciding whether to make a care order—

- (a) is required to consider the permanence provisions of the section 31A plan for the child concerned, but
- (b) is not required to consider the remainder of the section 31A plan, subject to section 34(11).

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(3B) For the purposes of subsection (3A), the permanence provisions of a section 31A plan are such of the plan's provisions setting out the long-term plan for the upbringing of the child concerned as provide for any of the following—

- (a) the child to live with any parent of the child's or with any other member of, or any friend of, the child's family;
- (b) adoption;
- (c) long-term care not within paragraph (a) or (b).

(3C) The Secretary of State may by regulations amend this section for the purpose of altering what for the purposes of subsection (3A) are the permanence provisions of a section 31A plan.”

(2) In section 31A of the Children Act 1989 (care plans)—

- (a) in subsection (1) (where application made for care order, care plan to be prepared within such time as the court may direct) for “the court may direct” substitute “ may be prescribed ”, and
- (b) after subsection (4) insert—

“(4A) In this section “prescribed”—

- (a) in relation to a care plan whose preparation is the responsibility of a local authority for an area in England, means prescribed by the Secretary of State; and
- (b) in relation to a care plan whose preparation is the responsibility of a local authority in Wales, means prescribed by the Welsh Ministers.”

(3 In consequence of subsection (1), section 121(1) of the Adoption and Children Act 2002 is repealed.

**Commencement Information**

**16** S. 15(1)(3) in force at 22.4.2014 by S.I. 2014/889, art. 4(d) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)

**16 Care proceedings and care plans: regulations: procedural requirements**

(1) In section 104 of the Children Act 1989 (regulations and orders)—

- (a) in subsections (2) and (3A) (regulations within subsection (3B) or (3C) not subject to annulment but to be approved in draft) after “(3B)” insert “ , (3BA) ”, and
- (b) after subsection (3B) insert—

“(3BA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 31(3C) or 32(9).”

<sup>F1</sup>(2) .....



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#### Textual Amendments

- F1** S. 16(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **291**

#### Commencement Information

- I7** S. 16 in force at 22.4.2014 by [S.I. 2014/889](#), **art. 4(e)** (with transitional provisions in [S.I. 2014/1042](#), arts. 3, 4, 6-10)

### 17 Repeal of restrictions on divorce and dissolution etc where there are children

- (1) The following are repealed—
  - (a) section 41 of the Matrimonial Causes Act 1973 (in proceedings for divorce etc. court is to consider whether to exercise powers under Children Act 1989);
  - (b) section 63 of the Civil Partnership Act 2004 (in proceedings for dissolution etc. court is to consider whether to exercise powers under Children Act 1989).
- (2) The following amendments and repeals are in consequence of the repeals made by subsection (1).
- (3) In section 9(1)(a) of the Matrimonial Causes Act 1973 (proceedings after decree of divorce: power to make decree absolute is subject to section 41)—
  - (a) for “sections” substitute “ section ”, and
  - (b) omit “and 41”.
- (4) In section 17(2) of that Act (grant of decree of judicial separation is subject to section 41) omit “, subject to section 41 below.”.
- (5) Omit paragraph 31 of Schedule 12 to the Children Act 1989 (which substitutes section 41 of the Matrimonial Causes Act 1973).
- (6) In section 40(4)(b) of the Civil Partnership Act 2004 (proceedings after conditional order: power to make order final is subject to section 63) omit the words from “and section 63” to the end.
- (7) In section 56(3) of that Act (making of separation order is subject to section 63) omit “, subject to section 63.”.

#### Commencement Information

- I8** S. 17 in force at 22.4.2014 by [S.I. 2014/793](#), **art. 2** (with transitional provisions in [S.I. 2014/1042](#), arts. 5, 11)

### 18 Repeal of uncommenced provisions of Part 2 of the Family Law Act 1996

- (1) Part 2 of the Family Law Act 1996 (divorce and separation), except section 22 (the only provision of Part 2 which is in force), is repealed.
- (2) In consequence of subsection (1), the following provisions of the Family Law Act 1996 (which relate to provisions of Part 2) are repealed—
  - (a) section 1(c) and (d),
  - (b) section 63(2)(a),

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- (c) section 64(1)(a),
  - (d) in section 65(5) the words “to rules made under section 12 or”,
  - (e) Part 1 of Schedule 8, except—
    - (i) paragraph 16(5)(a), (6)(b) and (7) (which have been brought into force), and
    - (ii) paragraphs 4 and 16(1) (which relate to those provisions),
  - (f) in Schedule 9, paragraphs 1 and 2 and, in paragraph 4, the definitions of “decree”, “instrument” and “petition”, and
  - (g) in Schedule 10, the entries relating to—
    - (i) the Matrimonial Causes Act 1973,
    - (ii) the Domicile and Matrimonial Proceedings Act 1973,
    - (iii) sections 1, 7 and 63 of, and paragraph 38 of Schedule 2 to, the Domestic Proceedings and Magistrates' Courts Act 1978,
    - (iv) the Senior Courts Act 1981,
    - (v) the Administration of Justice Act 1982,
    - (vi) the Matrimonial and Family Proceedings Act 1984,
    - (vii) the Family Law Act 1986, and
    - (viii) Schedule 13 to the Children Act 1989.
- (3) In consequence of subsections (1) and (2), the following provisions are repealed—
- (a) paragraphs 50 to 52 of Schedule 4 to the Access to Justice Act 1999,
  - (b) the following provisions of the Welfare Reform and Pensions Act 1999—
    - (i) section 28(1)(b) and (c), (2), (4) and (5),
    - (ii) section 48(1)(b) and (c), (2), (4) and (5), and
    - (iii) in Schedule 12, paragraphs 64 to 66,
  - (c) paragraphs 22 to 25 of Schedule 1 to the Constitutional Reform Act 2005,
  - (d) paragraph 12 of Schedule 2 to the Children and Adoption Act 2006, and
  - (e) the following provisions of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012—
    - (i) paragraphs 43 to 45, and
    - (ii) in the second column of the Table in Part 2, paragraph (1) of the entry relating to Schedule 4 to the Access to Justice Act 1999.
- (4) In consequence of subsection (1), in section 1 of the Family Law Act 1996 (general principles underlying Part 2), in the words before paragraph (a) and in the title, for “Parts II and III” substitute “ section 22 ”.
- (5) In consequence of subsection (3)(b)(i), in section 28(11) of the Welfare Reform and Pensions Act 1999 (interpretation of subsections (4)(b), (5)(c) and (6)) for “subsections (4)(b), (5)(c) and” substitute “ subsection ”.
- (6) The modifications set out in subsection (7), which were originally made by article 3(2) of the No. 2 Order and article 4 of the No. 3 Order, are to continue to have effect but as amendments of the provisions concerned (rather than as modifications having effect until the coming into force of provisions of the Family Law Act 1996 repealed by this section without having come into force).
- (7) The modifications are—

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- (a) in section 22(2) of the Matrimonial and Family Proceedings Act 1984 for the words from “if” to “granted” substitute “ if a decree of divorce, a decree of nullity of marriage or a decree of judicial separation has been granted ”, and
- (b) in section 31 of the Matrimonial Causes Act 1973—
  - (i) in subsection (7D) for “Subsections (7) and (8) of section 22A” substitute “ Section 23(6) ”,
  - (ii) in subsection (7D) for “section 22A” substitute “ section 23 ”, and
  - (iii) in subsection (7F) for “section 23A” substitute “ section 24 ”.
- (8) In section 31(7D) of the Matrimonial Causes Act 1973—
  - (a) for “apply”, in the first place, substitute “ applies ”, and
  - (b) for “they apply where it” substitute “ it applies where the court ”.
- (9) Articles 3(2) and 4 of the No. 2 Order, and article 4 of the No. 3 Order, are revoked; and in subsection (6) and this subsection—
  - “the No. 2 Order” means the Family Law Act 1996 (Commencement No. 2) Order 1997 (S.I. 1997/1892), and
  - “the No. 3 Order” means the Family Law Act 1996 (Commencement No. 3) Order 1998 (S.I. 1998/2572).

**Changes to legislation:**

There are currently no known outstanding effects for the Children and Families Act 2014, PART 2.