

Shared Parenting Orders Bill

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Schedule – Consequential amendments to the Children Act 1989

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Provide for the making of Shared Parenting Orders and to create a legal presumption that such Orders enhance the welfare of the child unless certain exceptions apply; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Purpose of Act

- (1) The purpose of this Act is to ensure that, wherever possible, children benefit from the full involvement of both parents in their upbringing.
- (2) Nothing in this Act shall be construed so as to conflict with or undermine in any way the paramountcy of the welfare of the child, as established under section 1 of the Children Act. 5

2 Shared parenting orders

- (1) Section 8 of the Children Act is amended as follows—
 - (a) in subsection (1), after the words “In this Act—”, insert—
 - ““a shared parenting order” means an order providing that both parents have a full involvement in the upbringing of a child, particularly in respect of major long-term issues, and requiring that the child must spend a substantial and significant amount of time with both parents;”, and 10
 - (b) after subsection (2) insert—
 - “(2A) When making a section 8 order, and subject to the considerations set out in sections 1(3) and 8A, the court must apply a presumption that it is in the best interests of the child for both of the child’s parents to have a full involvement in the upbringing of the child.”. 15

- (2) Before section 9(1) of the Children Act insert—
- “(A1) A shared parenting order may only be made in relation to a child where no other section 8 order is in force in relation to that child, or where any such orders are discharged before the shared parenting order comes into force.” 5
- (3) The Schedule makes consequential amendments to the Children Act relating to shared parenting orders and hereby has effect.

3 Welfare of the child: definition

After section 8 of the Children Act insert—

“8A Shared parenting orders: additional factors relating to the best interests of the child 10

- (1) In considering what is in the best interests of the child under section 8(2A), the court shall have regard to the fact that the child’s welfare is enhanced by—
- (a) ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives; 15
 - (b) protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or domestic violence;
 - (c) ensuring that children receive adequate and proper parenting to help them achieve their full potential; and 20
 - (d) ensuring that both parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and development of their children.
- (2) The principles underlying these objects are that (except when it is demonstrated that it is or would be contrary to a child’s best interests)— 25
- (a) children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; 30
 - (b) children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and development (including grandparents as well as other relatives);
 - (c) parents should jointly share duties and responsibilities concerning the care, welfare and development of their children; 35
 - (d) each parent should be involved in the child’s daily routine and occasions and events that are of particular significance to the child; and
 - (e) parents should agree about the future parenting of their children.”. 40

4 Shared parenting: time spent with both parents

After section 11A of the Children Act insert—

“11AA Division of time between parents

- (1) When making a shared parenting order, the court must apply a presumption that the child should spend a substantial and significant amount of time with both parents. 5
- (2) When applying the presumption under subsection (1) the court must consider—
 - (a) the factors set out in section 1(3) of this Act; and
 - (b) whether it would be reasonably practicable for the child to spend a substantial and significant amount of time with both parents. 10
- (3) In determining, for the purposes of subsections (1) and (2), whether it is reasonably practicable for a child to spend a substantial and significant time with each of his or her parents, the court must have regard to—
 - (a) how far apart the parents live from each other;
 - (b) the parents’ current and future capacity to ensure that the child spends a substantial and significant amount of time with both parents; and 20
 - (c) such other matters as the court considers relevant.
- (4) Where the court, in making a shared parenting order, decides not to provide for the child to spend a substantial and significant amount of time with both parents, it must—
 - (a) provide for the child to spend as much time as is practicable with both parents, given the considerations set out in subsection (2); and 25
 - (b) have regard to the desirability of the child spending at least 25 per cent of his or her time, in any one calendar year, with each of his or her parents.”. 30

5 Major long-term issues

After section 105(1) of the Children Act insert—

- “(1A) In this Act, “major long-term issues” means issues about the care, welfare and development of the child of a long-term nature and includes issues of that nature about— 35
- (a) the child’s education (both current and future);
 - (b) the child’s religious and cultural upbringing;
 - (c) the child’s health; and
 - (d) changes to the child’s living arrangements that make it significantly more difficult for the child to spend time with a parent. 40

A decision by a parent of a child to form a relationship with a new partner is not, of itself, a major long-term issue, within the meaning of this section, in relation to the child.”.

6 Interpretation

In this Act—

“Children Act” means the Children Act 1989;

“major long-term issues” has the meaning given in section 5; and

“shared parenting” is interpreted in accordance with section 2(2).

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7 Financial provisions

There shall be paid out of money provided by Parliament—

(a) *any expenditure incurred under or by virtue of this Act by the Secretary of State, and*

(b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

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8 Short title, commencement and extent

(1) This Act may be cited as the Shared Parenting Orders Act 2011.

(2) This Act shall come into force at the end of the period of six months beginning with the day on which this Act is passed.

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(3) This Act extends to England and Wales only.

SCHEDULE

Section 2(3)

CONSEQUENTIAL AMENDMENTS TO THE CHILDREN ACT 1989

- 1 The Children Act is amended as follows.
- 2 In section 9(5)(a), after the words “making a”, insert the words “shared parenting,”. 5
- 3 In section 10 –
 - (a) in subsection (4)(b), after the words “favour a”, insert the words “shared parenting or”;
 - (b) in subsection (5), after the words “apply for a”, insert the words “shared parenting”; 10
 - (c) in subsection (5)(c)(i), after the words “where a”, insert the words “shared parenting or”.
- 4 In section 11(5) –
 - (a) after the word “Where”, insert the words “a shared parenting order has been made with respect to a child, or”; 15
 - (b) after the words “the residence”, insert the words “shared parenting or”.
- 5 In section 13 –
 - (a) in subsection (1), after the words “Where a”, insert the words “shared parenting or”; 20
 - (b) in subsection (2), at the end, insert the words “, or, where a shared parenting order has been made, by one of the parents”;
 - (c) in subsection (3), after the words “making a”, insert the words “shared parenting or”.

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