

# CHILDREN AND FAMILIES ACT 2014

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## EXPLANATORY NOTES

### BACKGROUND AND SUMMARY

#### Part 2: Family justice

10. **Part 2** makes changes to improve the operation of the family justice system, as recommended by the independent Family Justice Review and accepted by the Government in its response published on 6 February 2012. The Family Justice Review, chaired by David Norgrove, was set up by the Government in 2010 to look at the family justice system and make recommendations as to how the system could be changed for the benefit of children and families. An *Interim Report* was published in March 2011 and the Family Justice Review Final Report was published in November 2011.
11. In respect of private family law (by which is meant the law about resolving disputes between family members, as distinct from public family law, about intervention by public authorities), the Act includes provisions to:
  - Require a potential applicant to attend a family mediation, information and assessment meeting to find out about and consider mediation before being able to apply for certain types of court order;
  - Send a clear signal to separated parents that courts will take account of the principle that both should continue to be involved in their children’s lives where that is safe and consistent with the child’s welfare, which remains the court’s paramount consideration;
  - Introduce a “child arrangements order”, replacing residence and contact orders;
  - Make changes so that when a child arrangements order is breached, the court can direct the parties to undertake activities designed to help them understand the importance of complying with the order and making it work;
  - Streamline court processes in proceedings for a decree of divorce, nullity of marriage, or judicial separation (or, in relation to a civil partnership, for a dissolution, nullity or separation order) by removing the requirement for the court to consider whether it should exercise any of its powers under the Children Act 1989. Arrangements for children can be decided at any time through separate proceedings under the Children Act 1989.
12. In respect of public family law, the Act includes provisions to:
  - Introduce a maximum 26 week time limit for completing care and supervision proceedings with the possibility of extending the time limit in a particular case for up to eight weeks at a time, should that be necessary to resolve the proceedings justly;
  - Ensure that the timetable for the case is child focused and decisions about it are made with explicit reference to the child’s welfare;

*These notes refer to the Children and Families Act 2014  
(c.6) which received Royal Assent on 13 March 2014*

- Make it explicit that, when the court considers a care plan, it should focus on those issues essential to deciding whether to make a care order; and
  - Remove the eight week time limit on the duration of initial interim care orders and interim supervision orders, and the four week time limit on subsequent orders, and allow the court to make interim orders for the length of time it sees fit, although not extending beyond the date when the relevant care or supervision order proceedings are disposed of.
13. In respect of experts, the Act includes provision to ensure that expert evidence in children proceedings is permitted only when necessary to resolve the case justly, taking account of factors including the impact on the welfare of the child, and whether the information could be obtained from one of the parties already involved in the proceedings. Family Procedure Rules are to prescribe the meaning of "children proceedings" which may include both private and public law proceedings.
14. Pre-legislative scrutiny of the family justice sections was undertaken by the House of Commons Justice Select Committee. The Committee published its report on 14 December 2012 and the provisions in Part 2 reflect the Government's response to the report, published on 5 February 2013 (*Children and Families Bill 2013: Contextual Information and Responses to Pre-Legislative Scrutiny*).