

Lord Bassam of Brighton moved Amendment No. 60:

Page 26, line 38, at end insert—

"() Unless it is not reasonably practicable to do so, the authorised person must comply with the following requirements before leaving the premises, namely—
(a) the requirements of subsection (6), and
(b) any requirement made under subsection (7) before he leaves the premises."

On Question, amendment agreed to.

Lord McKenzie of Luton: My Lords, I beg to move that consideration on Report be now adjourned.

Moved accordingly, and, on Question, Motion agreed to.

House adjourned at ten o'clock.

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Wednesday, 12 October 2005.

Grand Committee

The Committee met at half-past three of the clock.

[The Deputy Chairman of Committees (LORD HASKEL) in the Chair.]

Children and Adoption Bill [HL]

(Second Day)

|| The Deputy Chairman of Committees (Lord Haskel): I start by reminding the Committee that the usual procedures in Grand Committee apply, even though we are in the Moses Room. Should there be a Division in the Chamber, this Committee will adjourn for 10 minutes to vote.

There is a slight error in that Amendment No. 23, which is on the Marshalled List, was dealt with yesterday.

[*Amendments Nos. 24 to 28 not moved.*]

Baroness Crawley moved Amendment No. 29:

Page 2, line 14, at end insert—

"() Subsection (2) has effect subject to the restrictions in sections 11B and 11E."

The noble Baroness said: In moving Amendment No. 29, I shall also speak to Amendments

Nos. 41, 47, 48, 51, 52, 60, 61, 81, 85, 86, 87, 91, 94, 95, 96, 97, 100, 102, 103, 104, 105 and 111.

The amendments in this group are all simplifying and clarifying amendments. They are without prejudice, and I can offer either the longer version of the brief or the edited highlights. I take it from the feeling of the Committee that the edited highlights might be best.

The amendments in this group are all aimed at clarifying and simplifying the Bill, with the intention of making the law simpler to understand and easier to apply. While they are not matters of substance, I hope that Members of the Committee will welcome them as improvements to the Bill. Amendments Nos. 29, 47, 81 and 111 simply confirm that some clauses are subject to others. Amendments Nos. 41, 48, 85 and 86 are what I might call "simplifications by removal". In particular, we have removed specific reference to contact activity directions ceasing to have effect when court proceedings come to an end. We have removed the list of scenarios in which contact activity conditions may not be made, and also the link between the end date of enforcement orders to the end date of a contact order. Our objective in removing those provisions is to avoid being overly prescriptive in primary legislation about the types of situation that might occur. So we propose to remove those specific provisions because we wish to avoid the trap of inadvertently limiting the power of the court to bring about the right result. Of course, that does not mean that, for example, courts will not be able to bring enforcement orders to an end where appropriate.

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Paragraph 4 of new Schedule A1 to the 1989 Act, inserted by Schedule 1 to the Bill, gives the court power to revoke an enforcement order in specified circumstances.

Amendment No. 60 replaces the regulation-making power at new Section 11F of the Children Act 1989 regarding the provision of financial assistance to help those who need it to meet the cost of contact activities. In the interest of clarity, the amendment sets out more detail about how regulations made under this part of the Bill may operate, which I hope your Lordships will welcome.

In addition, the amendment will allow regulations to state that payments may be made only in respect of an activity offered by a provider approved by, as the case may be, the Secretary of State or the National Assembly for Wales. This is an important provision, and I believe that it addresses a point raised by the noble Baronesses, Lady Sharp and Lady Barker, through Amendments Nos. 54 and 59. They propose that providers of activities should be "appropriately qualified". In revising this regulation-making power, we have made clear that the Secretary of State or the National Assembly may determine which providers can receive public funds for administering contact activities. This must be right where public money is being used, and where parents and children are depending on the quality of the contact activities at a very difficult time in their lives.

Amendment No. 61 simply inserts words into new Section 11G(2) of the 1989 Act to ensure that the terminology used is the same as in new Section 11E(1), so there can be no doubt that the two provisions are referring to the same scenario; namely, where a court imposes a contact activity condition by means of a contact order.

Amendment No. 91 makes a purely technical amendment. It amends paragraph 3(2) of new Schedule A1 to the Children Act 1989, which in turn modifies Section 198(1) of the Criminal Justice Act 2003 to apply some of its provisions to unpaid work requirements imposed under enforcement orders made by family courts. The amendment simply ensures that a reference to "and" in the modified section falls in the correct place.

There are two further kinds of clarifying amendments in this group, which are in a similar vein.

Amendments Nos. 87, 94, 95, 96, 97 and 104 mean that, where appropriate, the provisions for enforcement orders inserted into the Children Act 1989 via Clause 4 and Schedule 1 will apply not only in respect of a contact order, but also in respect of any contact order that is subsequently made in its place.

Amendments Nos. 51 and 52 remove superfluous references to "variation" of contact orders in the body of the Bill, in order further to improve the clarity and simplicity of the provisions. So where there was once references to "contact orders" and then "orders varying" those orders, we have stripped down the wording to refer simply to "contact orders" in the two places where this is appropriate.

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Amendment No. 100 clarifies what may happen if a first contact enforcement order is still in force at the point when the court is considering whether to make a second enforcement order. Amendments Nos. 102 and 103 are consequential to this and ensure that the amended paragraph 9(2)(b) operates effectively. Amendments Nos. 100, 102 and 103, taken together, will make clear that, where a court issues a further enforcement order in response to an earlier enforcement order being breached, the combined effect of the two orders must be proportionate. Of course, the court has the flexibility to impose a fine or imprisonment for contempt of court if it considers that something more severe than a further enforcement order is justified in these circumstances.

Lastly, Amendment No. 105 simply clarifies what are the provisions elsewhere in the Bill that have effect when a second enforcement order is being made; for instance, that CAFCASS may be asked to monitor compliance with the order, and that in making the order the welfare of the child must be taken into account.

Taken as a group, these amendments will substantially improve the Bill, making its provisions both clearer and simpler. That is something which I know the Committee will welcome. I beg to move.

Earl Howe: I am all for the objective which the noble Baroness has just articulated of making the Bill simpler and clearer. From these Benches I can assure her that we look positively on all the amendments, subject to the proviso—which I know she and her noble friend understand—that in approving the amendments we do not necessarily signal our approval of the principles in the clauses as a whole. I know she understands that but I feel I should record it.

Perhaps the noble Baroness will be able to sort out a couple of puzzles which I am not immediately able to solve for myself. Amendments Nos. 85 and 86 strip out subsections (4) and (5) of proposed new Section 11K. Subsection (4) states:

"A court may not make an enforcement order that is to take effect on or after the coming to an end of the contact order to which it relates".

That makes eminent sense and I am not quite sure why it is coming out. Equally, I am not sure why the subsequent subsection is coming out. It seems to me to be a perfectly sensible and logical provision to have in the Bill.

My other query relates to Amendments Nos. 48 and 50 and proposed new Section 11D on page 3 of the Bill. Again, it strikes me that to excise the words there would be an odd thing to do. Perhaps the noble Baroness will be able to elucidate further on those points for the benefit of the Committee.