

Pub her: <http://www.regjeringen.no/en/dep/bld/Documents/Laws-and-rules.html?id=276069>

Act No. 7 of 8 April 1981 relating to Children and Parents (The Children Act)

Last amended by the Act of 9 April 2010 No. 13

Ministry of Children and Equality

Cf. the Acts of 22 April 1927 No. 3, 6 March 1981 No. 5, 8 July 1988 No. 72, 17 Feb 1989 No. 2, 17 July 1992 No. 100, 21 May 1999 No. 30, section 2 (4), cf. annexes 7 and 8, the Act of 29 April 2005 No. 20. - Cf. previous Acts of 1 Aug 1821, section 1 and 10, 15 Sep 1851, section 2, 6 July 1892 No. 5, 10 April 1915 No. 6 (with amendments of 25 June 1937 No. 13, 28 July 1949 No. 7, 9 Dec 1955 No. 5), 21 Dec 1956 No. 8, 9 and 10 (with amendments of 19 June 1969 No. 4, 16 June 1972 No. 44, 20 Dec 1974 No. 67).

Chapter 5 Parental responsibility and where the child shall live permanently

Section 30 *Meaning of parental responsibility*

The child is entitled to care and consideration from those who have parental responsibility. These persons have the right and the duty to make decisions for the child in personal matters within the limits set by sections 31 and 33. Parental responsibility shall be exercised on the basis of the child's interests and needs.

Those who have parental responsibility are under obligation to bring up and maintain the child properly. They shall ensure that the child receives an education according to his or her ability and aptitude.

The child must not be subjected to violence or in any other way be treated so as to harm or endanger his or her mental or physical health. This shall also apply when violence is carried out in connection with upbringing of the child. Use of violence and frightening or annoying behaviour or other inconsiderate conduct towards the child is prohibited.

As regards the right to make decisions on behalf of the child in financial matters, the provisions of Act No. 3 of 22 April 1927 on Guardianship shall apply.

Section 30 a *Marriage agreement*

An agreement about marriage made by the parents or others on behalf of the child is not binding.

Section 31 *The child's right of co-determination*

As and when the child becomes able to form its own point of view on matters that concern it, the parents shall listen to the child's opinion before making a decision on the child's personal situation. Attention shall be paid to the opinion of the child, depending on the age and maturity of the child. The same applies to other persons with whom the child lives or who are involved with the child.

When the child reaches the age of 7, it shall be allowed to voice its view before any decisions are made about the child's personal situation, including which of the parents it is to live with. When the child reaches the age of 12, the child's opinion shall carry significant weight.

Section 32 Education, membership of associations

Children who have reached the age of 15 shall themselves decide the question of choice of education and of applying for membership of or resigning from associations.

Section 33 *The child's right of self-determination*

Parents shall steadily extend the child's right to make his or her own decisions as he or she gets older and until he or she comes of age.

Section 34 *Parental responsibility if the parents are or have been married*

Parents who are married shall have joint parental responsibility for the children they have together.

Parents who separate or divorce may agree to have joint parental responsibility or that one of them shall have sole parental responsibility. Until an agreement or decision on parental responsibility has been made, the parents have joint responsibility.

Section 35 *Parental responsibility if the parents are not married*

When the parents are not married or cohabiting, cf. section 39, the mother shall have sole parental responsibility.

Cohabiting parents shall have joint parental responsibility for children of the relationship.

Parents who are not married or do not have joint parental responsibility pursuant to the second paragraph may nevertheless by agreement notify the National Population Register that they will have joint parental responsibility or that the father shall have sole parental responsibility.

If unmarried parents have joint parental responsibility but the child lives permanently with only one of them, the provisions of section 37 shall apply.

Section 35 a

Repealed 20 June 2003 no 40

Section 36 *Where the child shall live permanently*

The parents may agree that the child shall live permanently either with one of them or with both of them.

If the parents fail to agree, the court must decide that the child shall live permanently with one of them. When special reasons so indicate, the court may nevertheless decide that the child shall live permanently with both parents.

Section 37 *Decisions that may be taken by the person with whom the child lives permanently*

If the parents have joint parental responsibility, but the child lives permanently with only one of them, the other parent may not object to the parent with whom the child lives making decisions concerning important aspects of the child's care, such as the question of whether the child shall attend a day-care centre, where in Norway the child shall live and other major decisions concerning everyday life.

Section 38 *Parental responsibility after the death of one parent*

If one of the parents sharing parental responsibility dies, the surviving parent acquires sole parental responsibility. If the surviving parent has been charged or indicted with manslaughter or murder of the deceased, the District Court shall make a provisional decision concerning parental responsibility pursuant to the provisions of section 60 a.

If the child lives with both parents and one of them dies, the surviving parent acquires sole parental responsibility even if only the deceased parent had parental responsibility. This shall not apply in cases where the surviving parent has been charged, indicted or convicted as referred to in the first paragraph, second sentence.

If the death means that there no longer is anyone with parental responsibility for a child, the district sheriff (*lensmann*) or the District Court shall be informed of this in the notification of death. The District Court shall make a decision concerning the parental responsibility pursuant to the provisions of section 63.

A person or persons other than the parents can claim parental responsibility for the child after a death pursuant to the provisions in section 63.

The provisions of this chapter and of chapter 6 shall apply to the person or persons given parental responsibility.

Section 39 *Registration of parental responsibility*

Agreements or decisions concerning parental responsibility shall be reported to the National Population Register. Agreements concerning parental responsibility which are not reported to the National Population Register are not valid. If paternity or co-maternity is established and the parents are registered in the National Population Register at the same address or declare in a notification to the National Population Register that they are cohabiting, the population register shall record that the parents have joint parental responsibility.

Section 40 *Moving abroad with the child*

If one of the parents has sole parental responsibility, the other parent may not object to the child moving abroad. If the parents have joint parental responsibility, both of them must consent to the child moving abroad.

If the parents disagree as to who shall have parental responsibility or with whom the child shall live permanently, the child must not move abroad until the matter has been decided.

Section 41 *Travel abroad with the child*

A person who has joint parental responsibility or sole parental responsibility may take the child on short trips abroad. If the parents have joint parental responsibility, the court may by order prohibit travel abroad with the child if it is uncertain that the child will return. The prohibition may apply to a single trip or in general, and may also be imposed in a case concerning parental responsibility, with whom the child shall live or right of access. The court may make an interim decision pending a final decision of the case.

In cases where a prohibition against travel has been imposed, the child's name shall be deleted from the passport of the parent who wishes to leave the country, or the child's passport shall be revoked, or the child may be placed in the care of other persons in a proper manner until the case has been decided.

If there is a risk that the child will not return, the police may impose a temporary prohibition against leaving the country until the case can be dealt with by the court. The second paragraph shall apply correspondingly.

The parent who does not have parental responsibility may not travel abroad with the child without the consent of the parent who has parental responsibility. However, at the request of the parent who wishes to travel, the court may consent to the child travelling abroad if it is obvious that the child will return. The first paragraph, third and fourth sentences, shall apply correspondingly to such consent.

Chapter 6 Right of access, etc.

Section 42 *The child's right of access to the parents*

The child has right of access to both parents even if they live apart. The parents have mutual responsibility for implementing the right of access. If one of the parents wishes to move, and an agreement or decision has been made regarding access, the parent who wishes to move shall notify the other parent six weeks prior to the move at the latest.

The child is entitled to the care and consideration of the parent who is with the child. The parent who is with the child may make decisions concerning the care of the child while they are together.

Section 43 *Extent of the right of access, etc.*

The parent with whom the child does not live has right of access to the child unless otherwise agreed or determined. The extent of the right of access should be further agreed. If such access is not in the best interests of the child, the court must decide that there shall be no access.

The parents themselves shall agree on the extent of the right of access based on what they believe to be in the best interests of the child. Section 31, second paragraph, shall apply to the parents. In any agreement or decision regarding access, importance shall be attached, among other things, to ensuring the best possible overall contact between the child and his or her parents, the age of the child, the degree to which the child is attached to the local neighbourhood, the distance that must be travelled between the parents and the child's interests in all other respects. If "ordinary right of access" is agreed or determined, this entitles the parent to spend one afternoon a week with an overnight stay, every other weekend, a total of three weeks of the summer holiday and alternate autumn, Christmas, winter and Easter holidays with the child.

Conditions specifying how the right of access is to be exercised may be determined by agreement or by court judgement. If supervision is made a condition of the access, the court may in special circumstances order the Ministry to appoint a supervisor. The Ministry may issue regulations with further provisions concerning the appointment of a supervisor, exercise of the supervision and remuneration for this.

The other parent shall be notified a reasonable period of time in advance if access cannot take place as determined or if the time for the access must be agreed more specifically.

If the parent who has parental responsibility or with whom the child lives prevents a right of access from being exercised, the parent who has right of access may demand a new decision as to who is to have parental responsibility or with whom the child shall live, cf. section 64.

Section 44 *Travel costs in connection with access*

Travel costs in connection with access shall be shared proportionately between the parents according to their income if they are unable to agree otherwise. The costs to be divided are the costs of the child's travel, the parents' necessary travel costs associated with fetching or bringing the child in connection with access visits and the travel costs of the visiting parent when access visits take place where the child lives.

If special grounds render it reasonable, the court can determine a different distribution of the travel costs. If the parents agree, the question of travel costs may be decided by the County Governor instead. If the child is 15 years old, the question of travel costs may be decided by the County Governor even if only one of the parents requests it. The rules in section 64 apply correspondingly. The decision of the County Governor or the Ministry constitutes grounds for enforcement by execution.

When both parents so request, the County Governor may decide that a written agreement concerning division of travel costs shall be enforceable by execution pursuant to chapter 7 of the Enforcement Act.

Section 44 a

Repealed 20 June 2003 No. 40

Section 44 b

Repealed 20 June 2003 No. 40

Section 45 *Right of access for persons other than the parents*

When one or both of the parents are deceased, relatives of the child or other persons who are close to the child may request the court to establish whether they shall have right of access to the child, and the extent of such access.

In cases concerning right of access between the parents, a parent who has been denied access may demand that the decision-making body determines whether his or her parents shall have right of access to the child and the extent of such access. The first paragraph, third sentence, shall apply correspondingly. Access for grandparents may only be determined on condition that the person who is denied access is not allowed to be with the child.

The rules in Chapter 7 apply also to these matters. It is not a requirement that the parties shall have been to mediation before bringing the action.

Section 46 *Right to be heard before a decision is taken about the future of the child*

The person who has right of access to the child shall, as far as possible, be allowed to express an opinion before the parent who has parental responsibility takes decisions that will render it impossible or considerably more difficult to exercise right of access to the child.

Section 47 *Right to information about the child*

If one of the parents has sole parental responsibility, that parent shall give the other parent information about the child when so requested. The other parent also has the right to obtain information about the child from day-care centres, schools, the health and social welfare services and the police, if the duty of confidentiality does not apply in relation to the parents. Disclosure of such information may be refused if it may be detrimental to the child.

A rejection of the request for information pursuant to the first paragraph, second sentence, may be appealed to the County Governor. The provisions of chapter VI of the Public Administration Act shall apply insofar as they are appropriate even if the rejection is made by a private person.

In special circumstances the County Governor may decide that the parent who does not have parental responsibility shall lose the right to information under this section.

Chapter 7 Procedure in cases concerning parental responsibility, where the child is to live permanently, and access

I **Introductory regulations**

Section 48 *The best interests of the child*

Decisions on parental responsibility, where the child shall live permanently and on access, procedure in such matters, shall first and foremost have regard for the best interests of the child.

When making such decisions, regard shall be paid to ensuring that the child is not subjected to violence or in any other way treated in such a manner as to impair or endanger his or her physical or mental health.

Section 49 *Lawyers*

Lawyers who handle cases under this chapter should consider the possibility of the parties arriving at an agreed solution. The lawyer shall inform the parents of the opportunity for mediation.

Section 50 *Confidentiality*

Persons who mediate under section 51 and section 61, first paragraph, no. 2, have a duty of confidentiality in respect of the personal matters of which they become aware in connection with the assignment. Sections 6, 7, 9 and 10 of Act no. 62 of 19 June 1997 on Family Counselling Offices apply correspondingly.

Persons who serve under section 61, first paragraph, nos. 1, 3, 4 or 7 have a duty of confidentiality in respect of the personal matters of which they become aware in connection with the assignment. They may unimpeded by the duty of confidentiality give their principal the information they have obtained in connection with the assignment. Sections 6, 7, 9 and 10 of Act no. 62 of 19 June 1997 on Family Counselling Offices apply correspondingly.

Persons who serve under section 61, first paragraph, no. 5 have a duty of confidentiality in respect of personal matters of which they become aware in connection with the assignment. The court may rescind the duty of confidentiality if the lawyer or representative requires it.

II Mediation and decision to use coercive force for agreements

Section 51 *Who shall attend mediation*

Parents with children of the relationship under the age of 16 must attend mediation before bringing an action concerning parental responsibility, where the child shall live permanently or concerning time spent with the child.

Married parents with children of the marriage under the age of 16 must, in order to be granted a separation or divorce order pursuant to sections 20 and 22 of the Marriage Act, have attended mediation at a Family Counselling Office or with another approved mediator, cf. section 26 of the Marriage Act.

Cohabiting couples with children of the relationship under the age of 16 shall, in the event of a breakdown of the relationship, attend mediation.

The Ministry may provide guidelines on mediation, and on exemption from the duty to attend under special circumstances.

Section 52 *Purpose and content of the mediation*

The purpose of the mediation is to get the parents to arrive at a written agreement on the parental responsibility, about where the child shall live permanently and about time spent with the child. The parties should be made aware of the most important financial consequences of the agreement.

Section 53 *Attendance*

The parents shall attend mediation in person and at the same time. If appropriate, the mediator may nonetheless decide that they shall attend separately. In special circumstances the mediator may permit one or both parties to attend with a representative.

Section 54 *Mediation certificate*

A mediation certificate shall be issued when the parties have attended one hour of mediation with a mediator. If the parents fail to reach agreement, they shall be encouraged to continue mediating for up to three hours more. They may be offered mediation for a further three hours if the mediator considers that this may result in the parties reaching an agreement. The mediation certificate is valid for six months.

Section 55 *Decisions on enforcement of agreements*

When both parents request it, the County Governor may determine that a written agreement on parental responsibility, domicile and time spent with the child may be enforced pursuant to the rules in section 65. The condition is that the agreement shall first and foremost have regard for the best interests of the child. If necessary, experts, the child welfare services or social welfare services shall make a statement before the County Governor decides the question.

A condition for bringing the case before the County Governor pursuant to the first paragraph is that the parents must be able to present a valid mediation certificate.

The case must be brought before the County Governor where the child has its ordinary venue at the time when the action is brought.

III Court procedure

Section 56 *Conditions for bringing an action*

If the parents disagree on who is to have parental responsibility, on where the child is to live permanently or on time spent with the child, either of them may bring an action before the court. A person or persons other than the parents may bring the case to court when the conditions pursuant to sections 45 or 63 are met.

A condition for bringing an action under the first paragraph is that the parents must be able to present a mediation certificate.

Section 57 *Where to bring the action*

Cases under section 56 must be brought before the court where the child has his or her ordinary venue at the time when the action is brought. If the case concerns siblings with different ordinary venues, a joint action may be brought where one of the children has his or her ordinary venue. If the child is residing at a secret address, cf. Act of 16 January 1970 No. 1 relating to population registration and regulations issued pursuant to the Act, or if permission has been applied for or granted for use of fictitious personal data for the child, cf. section 14 a of Act of 4 August 1995 No. 53 relating to the Police, the action may be brought before the Oslo District Court.

Section 58 *Writ of summons and acknowledgement of service*

The writ of summons shall contain the names and addresses of the children and parents and shall state whether the disagreement concerns the parental responsibility, where the child shall live permanently or time spent with the child and shall provide a brief summary of the grounds for the disagreement and the plaintiff's claim. A mediation certificate shall be attached. The writ may be presented on an approved form.

The court shall serve the writ on the defendant. The acknowledgement of service shall state the points on which there is disagreement and briefly set out the defendant's view of the matter. The acknowledgement of service shall also contain the defendant's claim. The acknowledgement of service may be written on an approved form.

The court may request further explanation of the case from the parties if required in order to ensure that sufficient information is obtained about the case.

Section 59 *Court proceedings*

The judge shall do his best to hear the case quickly.

The judge shall at every stage of the case consider whether it is possible to reach a settlement between the parties and make arrangements for this.

The Courts of Justice Act and the Dispute Act apply to court procedure in cases under this Chapter unless it follows otherwise from the rules herein.

Section 60 *Interim decision*

When a claim has been presented by one of the parties, the court may make an interim decision on which of the parents shall have parental responsibility, with which parent the child shall live permanently, and on the right of access. Such decision may apply for a certain period of time or until the case has been finally decided. The court can also make an interim decision before the case has been brought, if special grounds so indicate.

At the same time, the court may prohibit the other parent from visiting the property or the home where the child is staying. If the decision is not urgent, the court shall as far as possible give the other party an opportunity to make a statement.

When a decision is made before the case has been brought, the court shall fix a time limit within which the case must be brought. The time limit may be extended by the judge's decision. If no case has been brought within the time limit, any decisions that have been made will cease to apply.

The decisions are made as orders of the court. It is not necessary to hold an oral hearing in advance.

Section 60a. *Provisional decision concerning parental responsibility in connection with charges, etc. pursuant to the Penal Code*

The court shall make a provisional decision concerning parental responsibility in cases where one of the parents with parental responsibility is charged or indicted with manslaughter or murder of the other parent. The same applies if the surviving parent in such circumstances does not have parental responsibility and claims it. Other persons may claim parental responsibility. The court may decide that no-one shall have parental responsibility. The surviving parent shall only be granted parental responsibility if this is clearly in the best interests of the child.

The provisions of section 63, second paragraph, shall apply correspondingly in connection with a provisional decision. If no case has been brought within six months after the charge or indictment is withdrawn or an enforceable judgment is passed in the criminal proceedings, the District Court shall make a new decision concerning parental responsibility pursuant to the provisions of section 63.

The decisions are made as orders of the court. It is not necessary to hold an oral hearing in advance.

Section 61 *Decisions during preparation of the case*

The court will schedule the main hearing immediately or after one or more of the measures in nos. 1 to 7 below have been implemented.

1. The court shall as a main rule summon the parties to one or more preparatory meetings, among other things to clarify the points of dispute between them, to discuss further procedure in the case and to mediate between the parties, if relevant. The court may appoint an expert to attend the preparatory meetings. The court may also ask the expert to talk with the parents and the children, and to make enquiries in order to clarify the facts of the case unless the parents object to this. The court determines the duties of the expert after the parties have been given the opportunity to make a statement.
2. The court may refer the parties to mediation with an approved mediator or other person with insight into the disputed points of the case. Sections 52 and 53 apply correspondingly. If the mediator finds that the parties will be unable to reach an agreement through further mediation, he shall immediately notify the court of this.
3. When necessary, the court should appoint an expert to make a statement on one or more of the questions raised by the case.
4. The judge may talk with the child, cf. section 31. The court may appoint an expert or other suitable person to assist, or let an expert talk with the child alone.
5. In special circumstances, the court may appoint a lawyer or other representative to attend to the child's interests in connection with the court action. The appointed person may have talks with the child and provide whatever information and support is appropriate. The lawyer or the representative shall be given the documents of the case. He may make suggestions about proceedings in the case and may give advice either in writing or in a court hearing as to how proceedings in the case can best serve the interests of the child. The court decides whether and, if relevant, for how long he shall be present during court hearings in the case. When the lawyer or the legal representative is present at the court hearing, he may question the parties and witnesses.
6. The court should obtain statements from the child welfare services and the social welfare services where necessary.
7. The court can give the parties the opportunity to try out an interim agreement for a specified period of time. The court may appoint an expert or other suitable person to advise the parents during the trial period.
8. The court may pass judgment without a main hearing as long as the parties consent to this and the court considers it appropriate.
9. The State will bear the cost of the initiatives mentioned in the first paragraph, nos. 1, 2, 4, 5 and 7. The expert appointed pursuant to the first paragraph shall be paid pursuant to Act no. 2 of 21 July 1916 on the Remuneration of Witnesses and Experts, etc. If a lawyer is to be appointed for the child pursuant to the first paragraph, no. 5, the child is entitled to free legal aid without a means test, cf. section 16, first paragraph (6), of the Legal Aid Act. The Ministry may by means of regulations determine rules governing remuneration for others who provide services under this section.

Section 62 *Appeal against decisions made during preparation of the case*

The court's choice of initiatives under section 61, first paragraph, cannot be appealed. An exception applies to any decision to refuse to appoint an expert under section 61, first paragraph, no. 3, or decision to refuse to obtain statements as mentioned in section 61, first paragraph, no. 6.

Section 63 *Procedure for claiming parental responsibility after a death*

Where the parent who is granted parental responsibility under section 38, first paragraph, did not live with the child, or the parent who was granted parental responsibility under section 38, second paragraph, did not have parental responsibility at the time when the other parent died, the surviving parent may within six months after the death bring an action claiming parental responsibility and to live permanently with the child. The court may make an interim decision under section 60.

When the surviving parent is charged or indicted with or convicted of manslaughter or murder of the other parent, other persons may always initiate proceedings to claim parental responsibility within six months after the charge or indictment is withdrawn or an enforceable judgment is passed in the criminal proceedings. If the surviving parent claims parental responsibility, the court shall only find in favour of the claimant when this is clearly in the best interests of the child. The court shall make a provisional decision pursuant to section 60 a.

The court shall decide the question by court order, which may be appealed. Normally, the court shall summon the parties to an oral hearing before making a decision. Emphasis shall be placed on whether the surviving parent wants parental responsibility. No one will be granted parental responsibility without meeting the conditions in paragraph 4.

If there is no longer anyone with parental responsibility for the child, cf. section 38, third paragraph, those persons wishing to claim parental responsibility shall contact the District Court where the child lives. If only one claim for parental responsibility is received, the court shall allow the claim, except if there is a danger of the child not being given adequate care and maintenance, or if it will suffer in other ways. Any rejection of an application for parental responsibility shall be made in a court hearing, and may be appealed.

Before the court decides the case, the child's next of kin or the persons with whom the child lives shall be given the opportunity to make a statement. The court may reject the right to make a statement under this paragraph when special grounds make a statement unnecessary. The child shall be heard under section 31.

The court may let one person have sole parental responsibility or let a married or cohabiting couple have joint parental responsibility. If a person other than the surviving father, mother or co-mother is granted parental responsibility, the court shall also decide whether the father, mother or co-mother shall continue to share in the parental responsibility. If the parents have expressed in writing whom they wish to be given parental responsibility after their death, this must be given weight.

The court may stipulate as a condition of its decision that, for a certain period, the child shall not be moved from the home where it is living if the move might be detrimental to the child and there are no reasonable grounds for moving.

If no one has stated an interest, or if the court rejects all claims for parental responsibility, the court shall notify the child welfare services. The child welfare

service shall place the child pursuant to the rules in section 4-14 and section 4-15, first paragraph, of Act no. 100 of 17 July 1992 on Child Welfare Services. Sections 4-16, 4-17, 4-18, first paragraph, and 4-20 apply correspondingly.

A decision made pursuant to this section may be brought before the court again by the surviving parent and be amended if special grounds so indicate. Section 64, third paragraph, applies correspondingly.

Section 64 *Amendment to agreement or decision on parental responsibility*

The parents may amend an agreement or decision on parental responsibility, with whom the child shall live and on the right of access.

If the parents fail to agree, either may bring an action before the court, cf. section 56. A court judgment, a settlement in court, or an agreement with enforcement can nonetheless only be amended if special grounds so indicate. An interim decision under section 60 a may be amended on the same conditions by the court that made the provisional decision, and such proceedings may be instituted by the surviving parent or by other persons.

If it is obvious that no special grounds exist as mentioned in the second paragraph, the court may decide the case without a main hearing.

IV. Enforcement

Section 65 *Enforcement*

Chapter 13 of the Enforcement Act applies to the enforcement of decisions on parental responsibility or with whom the child shall live. The enforcement officer shall nevertheless collect coercive fines. Collection shall only take place at the request of the person entitled thereto. A decision by the County Governor or the Ministry constitutes special grounds for enforcement. An interim decision pursuant to section 60 is enforceable even if the decision is not finally binding.

The decision on the right to access can be enforced by means of a coercive fine pursuant to Chapter 13 of the Enforcement Act. The District Court may determine a standing coercive fine that shall apply for a certain period of time for each time the right of access is not respected. A decision made by the County Governor or the Ministry is a special basis for enforcement. The first paragraph, second, third and fifth sentences, shall apply correspondingly.

Chapter 8 Duty to rear the child

Section 66 *Duty of the parents to rear the child*

The parents shall bear the expenses of maintaining and educating the child according to the child's ability and aptitude and the financial circumstances of the parents, when the child itself does not have the requisite means. Both parents have a mutual obligation to contribute what is necessary, each according to his or her ability.

The provisions regarding the parent's duty to rear the child pursuant to this chapter apply correspondingly to other persons who have been given parental responsibility after both parents are deceased.

Section 67 *Maintenance payment*

Where one or both of the parents do not live with the child, the parent concerned shall pay fixed contributions to maintenance and education. Parents who live with the child may also be required to pay contributions if they fail to fulfil their obligation to maintain the child pursuant to section 66. No one may renounce the rights the child has pursuant to this paragraph.

The parents may be ordered to provide special payments for special expenses as long as the duty to rear the child exists. It is a condition that the expenses are reasonable and necessary and are not covered by the expenses that the current maintenance payment is meant to cover. A claim for special payments must be filed within one year after the special expenses were incurred. The Ministry may by regulation lay down supplementary rules on special payments.

It is the child who has the right to the maintenance payment. Unless otherwise determined, it shall be paid monthly in advance to the parent with whom the child lives permanently. The maintenance payment shall be paid as from the calendar month in which the claim arises until the end of the calendar month when the preconditions for the maintenance payment no longer apply.

Section 68 *Duration of obligation to rear the child*

The obligation of the parents pursuant to sections 66 and 67 lasts until the child reaches the age of 18 unless otherwise agreed or determined in pursuance of this section.

If the child, after having reached the age of 18, wishes to continue with what must be regarded as a normal education, he or she is entitled to financial support for the duration of such education. A time limit shall be set in respect of claims for maintenance payment pursuant to this provision.

Parents may also be ordered to pay maintenance payment towards further education if this is reasonable considering the interests and aptitudes of the child, the opportunities of acquiring funds for further education from other sources, and other circumstances. A time-limit shall be set in respect of claims for such maintenance payment.

Section 69 *Relationship between the rules of obligation to rear the child pursuant to the Children Act and the Child Welfare Act*

Maintenance payment that are determined pursuant to this Act will cease to apply from the time maintenance can be determined pursuant to section 9-2 of the Child Welfare Act.

Section 70 *How the maintenance payment is determined*

The parents may make an agreement regarding maintenance payment to the child.

If they fail to agree, each of them may request that the maintenance enforcement agency determine the maintenance payment. They may do this even if they originally reached agreement on the maintenance payment, but in such a way that the current maintenance payment shall only be altered if the rules of the law will result in an alteration in excess of 12 per cent. The Ministry may issue a regulation relating to fees where the maintenance enforcement agency makes a decision on determination and alteration of the maintenance payment.

The question shall nevertheless be settled by the courts

- a) if either of the parents requests that this be done in conjunction with matrimonial proceedings or proceedings concerning parental responsibility, with whom the child shall live or right of access,
- b) if the maintenance enforcement agency refers the parties to the courts because this is more appropriate in view of the nature of the case.

With regard to maintenance payment pursuant to section 68, second and third paragraphs, to children who have reached the age of 18, it is the child himself or herself who shall make an agreement or be party to the case.

If the parents are not cohabiting when the child is born and they have not made an agreement regarding maintenance payment, the maintenance enforcement agency shall on its own initiative determine the maintenance payment to the child.

If the non-custodial parent is receiving support supplement from the Armed Forces in connection with undergoing basic military training or performing civilian service, or is entitled to other public benefit where child supplement is part of the benefit, the maintenance enforcement agency may, on its own initiative, determine the maintenance payment to the child for the period such support is paid.

An agency dealing with cases concerning the determination of maintenance payment has the same right to request information as the maintenance enforcement agency pursuant to section 10, second paragraph.

Section 71 *Public determination of maintenance payment*

The maintenance enforcement agency shall determine the maintenance payment in such a way that expenses for the support of the child determined according to the age of the child (maintenance costs) are shared between the parents according to their income. The maintenance payment shall nonetheless not be set higher than the amount the non-custodial parent is left with as the means determined for his own sustenance, etc. (assessment of ability to pay maintenance payment). The maintenance payment determined publicly or agreed orally or in writing shall as a main rule be

reduced for time spent with the child. If the parents have agreed on dual domicile pursuant to section 36 of the Act, special rules apply.

Unless otherwise provided by regulations pursuant to the third paragraph, the maintenance enforcement agency shall on its own initiative regulate the maintenance payment when the child enters a new age group.

The Ministry may by regulation lay down supplementary rules on the assessment of maintenance payment pursuant to this Act.

Section 72 *Determination of maintenance payment for periods already elapsed*

Maintenance payment may also be determined in respect of periods already elapsed, but nonetheless not in respect of periods that have expired more than three years before the date on which the claim was submitted to the decision-making agency. If maintenance payment is to be determined in respect of a period that has expired more than one year previously, it is a condition that the party has had a special reason for the delay in submitting the claim.

Section 73 *Indexation of maintenance payment*

All fixed maintenance payment to children shall be index-linked pursuant to the provisions of this section unless otherwise determined in the decision or the agreement.

Indexation also applies to the amount stipulated pursuant to section 5, first paragraph, of Act No. 2 of 17 February 1989 on Advance Payment of Maintenance Contributions.

Indexation is linked to changes in the consumer price index issued by the Central Bureau of Statistics. The maintenance payment shall be adjusted each year on the basis of the change in the value of the consumer price index as of the month of January compared with the value of the index at the previous adjustment. Each adjustment shall apply only to maintenance payment instalments falling due in June or later.

The maintenance payment shall be adjusted by the same percentage as that by which the consumer price index has changed, calculated to the nearest tenth of one percent. The amount of the maintenance payment shall be rounded off to the nearest ten kroner.

The maintenance enforcement agency shall recalculate maintenance payment to be recovered pursuant to the Act on Recovery of Maintenance Contributions.

The Ministry may lay down regulations to implement and supplement the provisions of this section.

Section 74 *Special alterations in maintenance payment determined*

A request may be made to alter maintenance payment determined by an administrative agency or a court of justice, if special grounds so indicate. The Ministry may by regulation lay down supplementary rules on such alteration.

Maintenance payment that has been or should have been paid when the request for alteration was submitted may also be reduced, increased or remitted if there are strong

reasons for so doing. The Ministry may by regulation lay down supplementary rules on remission of such debt. The provisions of section 72, second sentence, apply correspondingly.

When a decision is rendered to reduce maintenance payment that should have been paid already, private and public claims in regard to the maintenance payment for the period to which the alteration applies shall be determined again taking the new maintenance payment rate into account.

The provisions of section 70, second and third paragraphs, shall apply correspondingly with regard to who is responsible for deciding special alterations.

The provisions of section 70, sixth paragraph, to the effect that the maintenance enforcement agency may determine maintenance payment on its own initiative shall apply correspondingly in the event of alteration of maintenance payment.

Section 75 *Relationship between the decision-making agency and claims by the parties*

In appeals and in proceedings regarding alterations of maintenance payment pursuant to section 74, the decision-making agency may go beyond the claims of the parties. The decision-making agency may also alter other maintenance obligations pursuant to the Children Act and maintenance contributions to the spouse even if none of the parties so requests.

Where the non-custodial parent with several children does not have full ability to pay maintenance payment, or the total maintenance obligation is higher than a certain percentage of his or her income or the maintenance payment is fixed pursuant to section 9-2 of the Act of 17 July 1992 No. 100 relating to Child Welfare Services, the decision-making agency may on its own initiative make a total pro-rata determination of the maintenance payment to the children. This applies in all types of cases where at least one claim is received for initial determination, complaint or alteration, or where the maintenance enforcement agency can make a claim on its own initiative. The rule applies regardless of whether the non-custodial parent has children with the same custodial parent or several custodial parents. Sections 70, second paragraph, and 74, first paragraph, apply correspondingly. The Ministry may by issuing regulations provide supplementary rules on a total pro-rata determination of maintenance payment.

Section 76 *Interim decision in maintenance payment proceedings*

The maintenance enforcement agency may without delay determine an interim maintenance payment. If it is urgent, such decision may be made without the opposite party being allowed to express an opinion.

The maintenance enforcement agency may, on request, render interim decisions to reduce maintenance payment without the opposite party being allowed to express an opinion. This applies if the maintenance enforcement agency deems it clear that the conditions for so doing are present.

Interim decisions pursuant to the first, second and third paragraphs apply from the month in which the request for determination or alteration was submitted. Such decisions may be carried out immediately unless otherwise determined, and apply only until a final decision is rendered in the matter.

When maintenance cases shall be decided by a court, this section shall apply correspondingly. Interim decisions shall be rendered in a court order.

Section 77 *Appeals*

A decision regarding a maintenance payment for a child determined by the maintenance enforcement agency may be appealed to the immediately superior body or to the body designated by the Directorate of Labour and Welfare. The right of appeal shall not apply to decisions that apply only to regulation of the maintenance payment on entry to a new age group pursuant to section 71, second paragraph.

Section 78 *Implementation of decisions regarding maintenance payment and fees. Ground for enforcement.*

The maintenance payment shall be recovered by the Agency for recovery of maintenance payments pursuant to the provisions of the Act relating to Recovery of Maintenance Contributions.

Decisions in maintenance payment proceedings are enforceable by execution. Such decisions have legal effect and may be implemented before they become final unless otherwise determined. The time-limit for compliance is three days unless another time-limit has been fixed.

A written agreement concerning maintenance contributions constitutes a ground for enforcement by execution when maintenance contributions stipulated in the agreement are recovered pursuant to the provisions of the Act relating to Recovery of Maintenance Contributions. The same applies to a decision concerning fees as referred to in section 70, second paragraph.

If maintenance payments that have been paid are reduced pursuant to section 74, second paragraph, or section 76, the person paying the maintenance payment may demand that the Agency for recovery of maintenance payments reduce the deduction ordered in his or her wages, etc., in such manner and for such instalments as are judged equitable by the agency.

Section 79 *Advance payment of maintenance payment*

Act No 2 of 17 February 1989 relating to Advance Payment of Maintenance Contributions (the Advance Payment Act) shall apply to the advance payment of maintenance payment.

Section 80 *Application for reimbursement of maintenance payment when paternity has changed*

If any person who by order or agreement has paid maintenance payment to a child is later absolved of being the father of the child, he may claim reimbursement of the amount thereof from the National Insurance Scheme. The amount shall be linked to the consumer price index issued by Statistics Norway from the date the maintenance was paid until it is reimbursed. Index regulation shall nevertheless first apply after taking into account the tax deduction received by the absolved father in respect of maintenance payments. The benefit of the earlier tax deduction shall be set at 20 per

cent. The claim may be reduced or fail if it is clear that he had no reasonable grounds for acknowledging paternity, or that he should have instituted proceedings for change of paternity earlier.

A man who on whom is imposed the duty to rear the child but not paternity may claim reimbursement of the money from the National Insurance scheme if a DNA analysis shows that he could not be father of the child. The first paragraph shall apply correspondingly to the extent relevant.

A person absolved of paternity may not apply to have the maintenance payment repaid by the child himself or herself, by the mother or by the real father of the child.

The Ministry may by regulations issue supplementary provisions concerning application for reimbursement of maintenance payments pursuant to this Act.

Chapter 9 Concerning the application of the children act when any of the parties have connections with foreign countries

Section 81 *When paternity or co-maternity may be established in Norway*

Paternity and co-maternity may be established in Norway pursuant to section 4, section 7 and chapters 3 and 4

- a) if the mother was resident in Norway when the child was born
- b) if the child has later taken up residence in Norway, and the mother or the guardian of the child wishes to have paternity established here, or
- c) if the putative father is resident in Norway.

Proceedings for change pursuant to section 6 may be instituted before a Norwegian court if any of the persons entitled to institute proceedings are resident in Norway or if paternity has been established under Norwegian law.

Section 82 *When proceedings regarding parental responsibility or right of access may be dealt with by Norwegian judicial or administrative authorities*

Proceedings regarding parental responsibility, with whom the child shall live or right of access may be instituted in a Norwegian court or the case may be dealt with by the County Governor

- a) if the person against whom the claim is directed is resident in Norway
- b) if the child is resident in Norway, or
- c) if the question of parental responsibility or right of access has previously been determined in Norway unless it is legally possible to have the question decided abroad and the decision-making agency is of the opinion that the case should be decided there.

Proceedings regarding an interim decision may be dealt with by a Norwegian court in all cases where the child or the defendant is staying in Norway.

Section 83 *When proceedings regarding maintenance payment may be dealt with by Norwegian judicial or administrative authorities*

Questions regarding maintenance payment may be dealt with by the maintenance enforcement agency or a Norwegian court of justice

- a) when proceedings are instituted concerning paternity, co-maternity, parental responsibility or right of access before a competent Norwegian body, or
- b) if one of the parties or the child is resident in Norway.

Section 84 *Choice of law*

Cases that come under Norwegian jurisdiction pursuant to sections 81-83 shall be decided in accordance with Norwegian law.

Section 85 *Recognition of paternity or co-maternity established abroad*

If the paternity or co-maternity of a child follows directly from foreign law which shall be applied according to the rules of law in the country in question, this shall be effective in Norway unless otherwise established pursuant to sections 6 and 7.

The King may by regulation or in the individual case decide that paternity or co-maternity which has been established in another manner pursuant to foreign law, shall be effective in Norway. The same may be established in an agreement with a foreign state.

Chapter 10 Concluding provisions

Section 86 *Implementation*

The King may prescribe the regulations necessary for the implementation of this Act.

Section 87 *Commencement*

This Act comes into force on the date determined by the King.

Section 88 *Effect of the Act on children who were born before the Act came into force*

The Act also applies to children who were born before the Act came into force. The following exceptions shall apply:

- a) Paternity that follows from or was established pursuant to earlier legislation shall remain effective until otherwise established pursuant to this Act.
- b) Agreements or decisions regarding parental responsibility, right of access or duty of maintenance from the period prior to the Act's coming into force shall remain in force until they are in the event amended pursuant to this Act. Right of access directly pursuant to section 42, second paragraph, first sentence, shall not apply when the parents have become estranged before the Act came into force.

Section 89 *Amendments to other Acts*

From such time as the Act comes into force the following amendments will be made to other Acts:.....