



# Domestic Proceedings and Magistrates' Courts Act 1978

## 1978 CHAPTER 22

### PART V

#### SUPPLEMENTARY PROVISIONS

#### **84 Reasons for decisions in domestic proceedings**

- (1) The power to make rules conferred by section 15 of the Justices of the Peace Act 1949 shall, without prejudice to the generality of subsection (1) of that section, include power to make provision for the recording by a magistrates' court, in such manner as may be prescribed by the rules, of reasons for a decision made in such domestic proceedings or class of domestic proceedings as may be so prescribed, and for making available a copy of any record made in accordance with those rules of the reasons for a decision of a magistrates' court to any person who requests a copy thereof for the purposes of an appeal against that decision or for the purpose of deciding whether or not to appeal against that decision.
- (2) A copy of any record made by virtue of this section of the reasons for a decision of a magistrates' court shall, if certified by such officer of the court as may be prescribed, be admissible as evidence of those reasons.

#### **85 Periodical payments payable by one person under more than one order**

- (1) The power to make rules conferred by section 15 of the Justices of the Peace Act 1949 shall, without prejudice to the generality of subsection (1) of that section, include power to make provision—
  - (a) for enabling a person to make one complaint for the recovery of payments required to be made to him by another person under more than one periodical payments order; and
  - (b) for apportioning between two or more periodical payments orders, in such manner as may be prescribed by the rules, any sum paid to a clerk to a

magistrates' court on any date by the person liable to make payments under the orders which is less than the total sum required to be paid on that date to that clerk by that person in respect of those orders (being orders one of which requires payments to be made for the benefit of a child to the person with whom the child has his home and one or more of which requires payments to be made to that person either for his own benefit or for the benefit of another child who has his home with him).

(2) In this section—

"child" means a person who has not attained the age of eighteen;

"periodical payments order" means an order made by a magistrates' court, or registered in a magistrates court under Part II of the Maintenance Orders Act 1950 or Part I of the Maintenance Orders Act 1958, which requires the making of periodical payments,

and any payments required under a periodical payments order to be made to a child shall for the purposes of subsection (1) above be treated as if they were required to be made to the person with whom the child has his home.

## **86 Amendment of Administration of Justice Act 1964**

(1) Section 2(3) of the Administration of Justice Act 1964 (which provides that, for the purposes of the law relating to justices of the peace, magistrates' courts and other matters therein mentioned, a London commission area shall be deemed to be a county) shall have effect, and shall be deemed to have had effect as from 1st April 1974, as if—

- (a) after the words " magistrates' courts " there were inserted the words " magistrates' courts committees ";
- (b) before the word " county ", where it first occurs, there were inserted the words " non-metropolitan "; and
- (c) after the words " passing of this Act " there were inserted the words " and references to a non-metropolitan county in any enactment or instrument as amended or modified by or under the Local Government Act 1972 ".

(2) Section 2(3A) of the said Act of 1964 (which provides that for the purposes of the law relating to magistrates' courts committees a London commission area shall be deemed to be a non-metropolitan county) shall cease to have effect.

## **87 Expenses**

There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any other enactment.

## **88 Interpretation**

(1) In this Act—

" actual custody," in relation to a child, means the actual possession of his person ;

" child ", in relation to one or both of the parties to a marriage, includes an illegitimate child of that party or, as the case may be, of both parties ;

" child of the family", in relation to the parties to a marriage, means—

- (a) a child of both of those parties; and

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*Status: This is the original version (as it was originally enacted).*

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(b) any other child, not being a child who is being boarded-out with those parties by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family;

" commission area " has the same meaning as in section 1 of the Administration of Justice Act 1973 ;

" domestic proceedings " has the meaning assigned to it by section 56 of the Magistrates' Courts Act 1952;

" local authority " means the council of a county (other than a metropolitan county), of a metropolitan district or of a London borough, or the Common Council of the City of London;

" petty sessions area " means any of the following areas, that is to say, a non-metropolitan county which is not divided into petty sessional divisions, a petty sessional division of a non-metropolitan county, a metropolitan district which is not divided into petty sessional divisions, a petty sessional division of a metropolitan district, a London commission area which is not divided into petty sessional divisions, a petty sessional division of a London commission area and the City of London;

" rules " means rules made under section 15 of the Justices of the Peace Act 1949.

- (2) References in this Act to the parties to a marriage living with each other shall be construed as references to their living with each other in the same household.
- (3) For the avoidance of doubt it is hereby declared that references in this Act to remarriage include references to a marriage which is by law void or voidable.
- (4) Anything authorised or required by this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done, or is to be done, may be done by, to or before any magistrates' court acting for the same petty sessions area as that court.
- (5) Any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any subsequent enactment, including this Act.

## **89 Transitional provisions, amendments, repeals and commencement**

- (1) The transitional provisions contained in Schedule 1 to this Act shall have effect.
- (2) Subject to the transitional provisions contained in Schedule 1 to this Act—
  - (a) the enactments specified in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule (being minor amendments and amendments consequential on the preceding provisions of this Act), and
  - (b) the enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) This Act shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint and different dates may be appointed for, or for different purposes of, different provisions.
- (4) Without prejudice to the transitional provisions contained in Schedule 1 to this Act, an order under subsection (3) above may make such further transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of the provisions thereby brought into force or any provision of this Act then in force as appear to him

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to be necessary or expedient in consequence of the partial operation of this Act or the Children Act 1975.

- (5) An order under subsection (3) above may repeal any provision of this Act which has ceased to have effect by reason of the coming into force of the Adoption Act 1976.
- (6) The inclusion in this Act of any express transitional provision or amendment shall not be taken as prejudicing the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals.

## **90 Short title and extent**

- (1) This Act may be cited as the Domestic Proceedings, and Magistrates' Courts Act 1978.
- (2) Except for the following provisions, that is to say—
  - (a) sections 54, 55, 60, 61, 74(1) and (3), 87, 88(5), 89(2)(a), (3) and (4) and this section, and
  - (b) paragraphs 1, 12, 13, 14, 17 and 18 of Schedule 2this Act does not extend to Scotland.
- (3) Except for the following provisions, that is to say—
  - (a) sections 54, 59, 74(5), 88(5), 89(2), (3) and (4) and this section, and
  - (b) paragraphs 12, 13, 14, 33 and 34(a) of Schedule 2 and Schedule 3,this Act does not extend to Northern Ireland, and in section 88(5) of this Act any reference to an enactment includes a reference to an enactment contained in an Act of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly.