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Changes to legislation: Family Law Act 1986, SCHEDULE 1 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 68(1).

MINOR AND CONSEQUENTIAL AMENDMENTS ACTS

ACTS

1 F1

Textual Amendments

F1 Sch. 1 para. 1 repealed by Court of Session Act 1988 (c. 36, SIF 36:1), s. 52(2), Sch. 2 Pt. I

The Guardianship of Infants Act 1886 (c. 27)

- 2 In section 9 of the Guardianship of Infants Act 1886, in the paragraph beginning “In Ireland” for the words from “the county court” to the end there shall be substituted the words “any county court, except that provision may be made by county court rules that in the case of such applications to county courts as are prescribed by county court rules only such county courts as are so prescribed shall be authorised to hear those applications”.

The Sheriff Courts (Scotland) Act 1907 (c. 51)

- 3 In section 6 of the Sheriff Courts (Scotland) Act 1907, after the words “Act 1973” there shall be inserted the words “and Chapter III of Part I of the Family Law Act 1986”.

The Matrimonial Proceedings (Children) Act 1958 (c. 40)

- 4 In section 8(1) of the Matrimonial Proceedings (Children) Act 1958—
- (a) for the words from “custody” to “jurisdiction” there shall be substituted the words “custody the court has power”;
 - (b) at the end there shall be added the words “ In this subsection “child” does not include a child with respect to whom the court has made an order under section 13(6) or 14(2) of the Family Law Act 1986 ”.
- 5 In section 9(1) of the said Act of 1958, for the words from “either forthwith” to “granted therein” there shall be substituted the words “, subject to section 13(2) of the Family Law Act 1986.”
- 6 In section 10(1) of the said Act of 1958, for the words from “custody” to “jurisdiction” there shall be substituted the words “custody the court has power”.

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- 7 In section 11(1) of that Act, for the words from “custody” to “jurisdiction” there shall be substituted the words “custody the court has power”.

The Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 (c. 19)

- 8 In section 8(6) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966, in the definition of “sheriff”—

- (a) after the word “means” there shall be inserted the words—
 “(a) in relation to an order under subsection (1)(a), (b) or (c) above or an order varying any such order”;
- (b) at the end there shall be added the words—
 “(b) in relation to an order mentioned in subsection (1)(d) above or an order varying any such order, the sheriff having jurisdiction under section 9, 10 or 12 of the Family Law Act 1986.”

The Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63)

- 9 In section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (restriction of publicity for certain proceedings)—

- (a) in subsection (1) paragraph (a) shall cease to have effect and there shall be inserted at the end the following paragraph—
 “(d) proceedings under Part III of the Family Law Act 1986”;
- (b) in subsection (3) for the words “subsection (1)(a)” there shall be substituted the words “subsection (1)(d)”.

The Guardianship of Minors Act 1971 (c. 3)

- [F2]10 (1) Section 15 of the Guardianship of Minors Act 1971 shall be amended as follows.

- (2) For subsection (1) there shall be substituted the following subsection—

“(1) Subject to the provisions of this section “the court” for the purposes of this Act means the High Court, any county court or any magistrates’ court, except that provision may be made by rules of court that in the case of such applications to a county court, or such applications to a magistrates’ court, as are prescribed, only such county courts, or as the case may be such magistrates’ courts, as are prescribed shall be authorised to hear those applications.”

- (3) After subsection (2) there shall be inserted the following subsections—

“(2A) It is hereby declared that any power conferred on a magistrates’ court under this Act is exercisable notwithstanding that any party to the proceedings is residing outside England and Wales.

(2B) Where any party to the proceedings on an application to a magistrates’ court under this Act resides outside the United Kingdom and does not appear at the time and place appointed for the hearing of the application, the court shall not hear the application unless it is proved to the satisfaction of the court, in such manner as is prescribed, that such steps as are prescribed have been

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taken to give to that party notice of the application and of the time and place appointed for the hearing of it.

(2C) In this section “prescribed” means prescribed by rules of court.”

(4) Subsections (3) to (6) shall cease to have effect.]

Textual Amendments

F2 Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

[^{F3}11 After section 15 of that Act there shall be inserted the following section—

“ Financial provision for minor resident in country outside England and Wales.

(1) Where one parent of a minor resides in England and Wales and the other parent and the minor reside outside England and Wales, the court shall have power, on an application made by that other parent, to make one or both of the orders mentioned in section 9(2)(a) and (b) of this Act against the parent resident in England and Wales, notwithstanding that no order has been made under section 9(1) of this Act regarding the custody of the child; and in relation to such an application section 9(2)(a) and (b) shall have effect as if for any reference to the parent excluded from actual custody there were substituted a reference to the parent resident in England and Wales.

(2) Any reference in this Act to the powers of the court under section 9(2) of this Act or to an order made under the said section 9(2) shall include a reference to the powers which the court has by virtue of subsection (1) above or, as the case may be, to an order made by virtue of subsection (1) above.”]

Textual Amendments

F3 Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

12 In section 17 of that Act subsection (2) shall cease to have effect.

The Matrimonial Causes Act 1973 (c. 18)

[^{F4}13 In section 41(1) of the Matrimonial Causes Act 1973, at the end of paragraph (b) there shall be inserted the following sub-paragraph—

“(iii) such arrangements have been made in respect of every child named in the order except any child with respect to whom the court has made an order under section 4(5) or 5(2) of the Family Law Act 1986 (orders precluding or staying proceedings for a custody order), or”.]

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Textual Amendments

F4 Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

14 In section 47 of that Act (declarations in respect of polygamous marriages), for subsection (3) there shall be substituted the following subsection—

“(3) In this section “a declaration concerning the validity of a marriage” means any declaration under Part III of the Family Law Act 1986 involving a determination as to the validity of a marriage”.

15 In section 50 of that Act (matrimonial causes rules)—

- (a) in subsection (1) at the end of paragraph (a) there shall be inserted the words “and Part III of the Family Law Act 1986”;
- (b) in subsection (2) in paragraph (a) for the words “38 or 45 above” there shall be substituted the words “or 38”, in paragraph (b) the words “proceedings in a county court under section 45 above or to” shall cease to have effect and in paragraph (c) the words “or to any aspect of section 47 above which is excepted by paragraph (b) above” shall cease to have effect.

The Guardianship Act 1973 (c. 29)

[^{F5}16 The following provisions of the Guardianship Act 1973 shall cease to have effect—

- (a) in section 1(6), the words from “except that” to the end of the subsection;
- (b) in section 2(1), the words “15”, “and section 15(3) to (6)” and “they are”;
- (c) section 5(3);
- (d) in Part I of Schedule 2, paragraph 3;
- (e) in Part II of Schedule 2, the text of section 15(3) to (6) of the ^{M1}Guardianship of Minors Act 1971.]

Textual Amendments

F5 Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

Marginal Citations

M1 1971 c. 3.

[^{F6}17 In section 1(6) of the said Act of 1973 for the words “15(1) to (3)” there shall be substituted the words “15(1) to (2A), section 15(2C)”.]

Textual Amendments

F6 Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

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- 18 In section 10(3) of that Act, for the words from “any sheriff” to “1886” there shall be substituted the words “the sheriff court”.

The Children Act 1975 (c. 72)

- 19 In section 33(1) of the Children Act 1975 the words “if the child is in England or Wales at the time the application is made” shall cease to have effect.

[^{F7}20 (1) Section 100 of that Act shall be amended as follows.

(2) In subsection (2) after the word “If” there shall be inserted the words “in the case of an application for any order other than an order under Part II of this Act”.

(3) For subsection (7) there shall be substituted the following subsection—

“(7) In the case of an application for an order under Part II of this Act, the following are authorised courts—

- (a) the High Court,
- (b) for the purposes of such applications under the said Part II as are prescribed by rules made under section 75 of the County Courts Act 1984, any county courts so prescribed in relation to those applications;
- (c) for the purposes of such applications under the said Part II as are prescribed by rules made under section 144 of the Magistrates’ Courts Act 1980, any magistrates’ court so prescribed in relation to those applications.”.

(4) In subsection (8) the words “or 42” shall cease to have effect.]

Textual Amendments

F7 Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

The Marriage (Scotland) Act 1977 (c. 15)

- 21 In proviso (ii) to section 3(5) of the Marriage (Scotland) Act 1977 (certificate as to capacity to marry)—

- (a) after the word “above” there shall be inserted the word “(a)”; and
- (b) at the end there shall be added the words “or (b) if no such certificate has been issued only by reason of the fact that the validity of a divorce or annulment granted by a court of civil jurisdiction in Scotland or entitled to recognition in Scotland under section 44 or 45 of the Family Law Act 1986 is not recognised in the state in which the certificate would otherwise have been issued.”

- 22 In section 26(2) of the said Act of 1977 there shall be inserted in the appropriate alphabetical position the following definition—

“ “annulment” includes any decree or declarator of nullity of marriage, however expressed.”

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The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

- [^{F8}23 In section 8(2) of the Domestic Proceedings and Magistrates' Courts Act 1978, after the words “the said section 2, 6 or 7” there shall be inserted the words “(but subject to section 2 of the Family Law Act 1986)”.]

Textual Amendments

- F8** Sch. 1 paras. 10, 11, 13, 16, 17, 20, 23 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

- 24 In section 30(1) of the said Act of 1978, after the words “subject to” there shall be inserted the words “section 2 of the Family Law Act 1986 and”.

The Supreme Court Act 1981 (c. 54)

- 25 In section 26(b) of the Supreme Court Act 1981 the words “or jactitation of marriage” shall cease to have effect.
- 26 In paragraph 3 of Schedule 1 to that Act (business assigned to Family Division of the High Court) there shall be added at the end the following sub-paragraph—
 “(e) applications under Part III of the Family Law Act 1986.”

The Matrimonial and Family Proceedings Act 1984 (c. 42)

- 27 In section 32 of the Matrimonial and Family Proceedings Act 1984 (what is family business), in the definition of “matrimonial cause” for the words “judicial separation or jactitation of marriage” there shall be substituted the words “or judicial separation”.

The Child Abduction and Custody Act 1985 (c. 60)

- 28 In section 9 of the Child Abduction and Custody Act 1985 (suspension of court’s powers in cases of wrongful removal), after paragraph (a) there shall be inserted the following paragraph—
 “(aa) enforcing under section 29 of the Family Law Act 1986 a custody order within the meaning of Chapter V of Part I of that Act;”.
- 29 In section 20(2) of the said Act of 1985 (suspension of court’s powers), after paragraph (a) there shall be inserted the following paragraph—
 “(aa) in the case of proceedings under section 29 of the Family Law Act 1986 for the enforcement of a custody order within the meaning of Chapter V of Part I of that Act, enforce that order;”.
- 30 In section 27(1) of the said Act of 1985 (interpretation), in the definition of “custody order” after the word “means” there shall be inserted the words “(unless the contrary intention appears)”.
- 31 In paragraph 5 of Schedule 3 of the said Act of 1985 (custody orders in Scotland), after sub-paragraph (ii) there shall be inserted the following sub-paragraph—
 “(iia) an order freeing a child for adoption made under section 18 of the Adoption (Scotland) Act 1978”

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ORDERS

The Matrimonial Causes (Northern Ireland) Order 1978 S.I. 1978/1045 (N.I. 15)

- 32 In Article 44(1) of the Matrimonial Causes (Northern Ireland) Order 1978, at the end of sub-paragraph (b) there shall be inserted the following head—
- “(iii) such arrangements have been made in respect of every child named in the order except any child with respect to whom the court has made an order under section 21(5) or 22(2) of the Family Law Act 1986 (orders precluding or staying proceedings for a custody order); or”.

The Domestic Proceedings (Northern Ireland) Order 1980 S.I. 1980/563 (N.I. 5)

- 33 In Article 10(2) of the Domestic Proceedings (Northern Ireland) Order 1980, after the words “that Article” there shall be inserted the words “(but subject to section 19 of the Family Law Act 1986)”.
- 34 In Article 32(1) of that Order, for the words “Without prejudice” there shall be substituted the words “Subject to section 19 of the Family Law Act 1986 and without prejudice”.

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