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SCHEDULES

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Maintenance Orders (Facilities for Enforcement) Act 1920 (c.33)

- 1 In Section 6(2) of the Maintenance Orders (Facilities for Enforcement) Act 1920—
- (a) for the words “in like manner as an order of affiliation” there shall be substituted the words “ as a magistrates’ court maintenance order ”;
 - (b) at the end of that subsection there shall be inserted the words—

“In this subsection “magistrates” court maintenance order, has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980.”

The Trustee Act 1925 (c.19)

- 2 At the end of section 33 of the Trustee Act 1925 there shall be added the following subsection—
- “(4) In relation to the dispositions mentioned in section 19(1) of the Family Law Reform Act 1987, this section shall have effect as if any reference (however expressed) to any relationship between two persons were construed in accordance with section 1 of that Act.”

The Administration of Estates Act 1925 (c.23)

- 3 At the end of section 50 of the Administration of Estates Act 1925 there shall be added the following subsection—
- “(3) In subsection (1) of this section the reference to this Part of this Act, or the foregoing provisions of this Part of this Act, shall in relation to an instrument inter vivos made, or a will or codicil coming into operation, after the coming into force of section 18 of the Family Law Reform Act 1987 (but not in relation to instruments inter vivos made or wills or codicils coming into operation earlier) be construed as including references to that section.”
- 4 At the end of section 52 of that Act there shall be added the words “ and references (however expressed) to any relationship between two persons shall be construed in accordance with section 1 of the Family Law Reform Act 1987 ”.

The National Assistance Act 1948 (c.29)

- 5 In section 42 of the National Assistance Act 1948 (liability to maintain spouse and children), for subsection (2) there shall be substituted the following subsection—

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- “(2) Any reference in subsection (1) of this section to a person’s children shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”
- 6 In section 43 of that Act (recovery of cost of assistance from persons liable for maintenance), for subsection (6) there shall be substituted the following subsection—
- “(6) An order under this section shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980.”
- 7 Section 44 of that Act (affiliation orders) shall cease to have effect.
- 8 In section 56(1) of that Act (legal proceedings), after the words “any sum due under this Act to a local authority” there shall be inserted the words “ (other than a sum due under an order made under section 43 of this Act) ”.

The Marriage Act 1949 (c.76)

- 9 In the Marriage Act 1949 for the words “an infant”, wherever they occur in section 3, 16 or 28 or in Schedule 2, there shall be substituted the words “ a child ” and for the words “the infant”, wherever they occur in section 3 or in Schedule 2, there shall be substituted the words “ the child ”.
- 10 In section 78 of that Act—
- (a) in subsection (1) for the definition of “infant” there shall be substituted the following definition—
- ““child” means a person under the age of eighteen;”;
- (b) after that subsection there shall be inserted the following subsection—
- “(1A) References in this Act to the parents of a child being or not being married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”
- [^{F1}11 In Schedule 2 to that Act for the heading to Part I there shall be substituted the following heading—

“I.

WHERE THE PARENTS OF THE CHILD WERE MARRIED
 TO EACH OTHER AT THE TIME OF HIS BIRTH”.]

Textual Amendments

F1 Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 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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The Maintenance Orders Act 1950 (c. 37)

- 12 In section 16(2)(a) of the Maintenance Orders Act 1950—
- [^{F2}(a) for sub-paragraph (iii) there shall be substituted the following sub-paragraph—
- “(iii) section 11B, 11C(1) or 11D of the Guardianship of Minors Act 1971 or section 2(3) or 2(4A) of the Guardianship Act 1973;”]
- (b) sub-paragraph (iv) shall cease to have effect;
- (c) the sub-paragraph (vi) inserted by the ^{M1}Children Act 1975 shall cease to have effect;
- (d) in the sub-paragraph (vi) inserted by the ^{M2}Supplementary Benefits Act 1976 the words from “or section 4 of the Affiliation Proceedings Act 1957” to the end shall cease to have effect;
- (e) in sub-paragraph (viii) the words from “or section 4 of the ^{M3}Affiliation Proceedings Act 1957” to the end shall cease to have effect.

Textual Amendments

- F2** Sch. 2 paras. 12(a), 20, 27(a) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

Marginal Citations

- M1** 1975 c. 72.
M2 1976 c. 36.
M3 1957 c. 55.

- 13 In section 18 of that Act for subsection (2) there shall be substituted the following subsection—
- “(2) Every maintenance order registered under this Part of this Act in a magistrates’ court in England and Wales shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980.”

[^{F3}The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(c. 65)]

Textual Amendments

- F3** Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 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 2(1) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, for paragraph (d) of the proviso there shall be substituted the following paragraph—
- “(d) an order for alimony, maintenance or other payments which has been made under sections 21 to 33 of the Matrimonial Causes Act 1973

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or under section 11B, 11C(1) or 11D of the Guardianship of Minors Act 1971 or section 2(4A) of the Guardianship Act 1973;”.

The Births and Deaths Registration Act 1953 (c. 20)

- 15 In section 9(4) of the 1953 Act for “(b) or (c)” there shall be substituted “ (b), (c) or (d) ”.
- 16 In the proviso to section 14(1) of that Act—
- (a) in paragraph (a) for the word “acknowledging” there shall be substituted the word “ stating ”;
 - (b) in paragraph (b) the words “by an affiliation order or otherwise” shall cease to have effect;
 - (c) at the end of paragraph (c) there shall be added the words “ or section 56 of the Family Law Reform Act 1987 ”.
- 17 In section 34(2) of that Act for the words “required by law” there shall be substituted the words “ required or permitted by law ”.

The Maintenance Orders Act 1958 (c. 39)

- 18 In section 3 of the Maintenance Orders Act 1958 for subsection (2) there shall be substituted the following subsection—
- “(2) Subject to the provisions of the next following subsection, an order registered in a magistrates’ court shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980.”

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

- 19 In section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (restriction of publicity for certain proceedings)—
- (a) in subsection (1) the word “and” following paragraph (b) shall cease to have effect and there shall be inserted at the end the following paragraph—
 - “(e) proceedings under section 56(1) of the Family Law Act 1986 (declarations of parentage);”;
 - (b) in subsection (3) for the words “subsection (1)(d)” there shall be substituted the words “subsection (1)(d) or (e)”.

The Family Law Reform Act 1969 (c. 46)

- [F⁴20 (1) Section 6 of the Family Law Reform Act 1969 (maintenance for wards of court) shall be amended as follows.
- (2) At the end of subsection (1) there shall be added the words “and references (however expressed) to any relationship between two persons shall be construed in accordance with section 1 of the Family Law Reform Act 1987”.
 - (3) For subsection (3) there shall be substituted the following subsection—

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“(3) Section 12 of the Guardianship of Minors Act 1971 (duration of orders for maintenance) and subsections (4), (5) and (6) of section 12C of that Act (variation and revival of orders for periodical payments) shall apply in relation to an order made under subsection (2) of this section as they apply in relation to an order made by the High Court under section 11B of that Act.”

(4) In subsection (5) (which provides that an order under that section shall cease to have effect if the parents of the ward reside together for a period of three months after the making of the order) for the words “three months” there shall be substituted the words “six months”.

(5) Subsection (6) (which provides that no order shall be made under that section requiring any person to make any payment towards the maintenance or education of an illegitimate child) shall cease to have effect.]

Textual Amendments

F4 Sch. 2 paras. 12(a), 20, 27(a) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

VALID FROM 01/04/2001

21 In section 20(6) of that Act, for the words “blood samples” there shall be substituted the words “bodily samples”.

VALID FROM 01/04/2001

22 In section 21 of that Act, for the words “blood sample”, in each place where they occur, there shall be substituted the words “bodily sample” and for the words “blood tests” there shall be substituted the words “scientific tests”.

VALID FROM 01/04/2001

23 (1) Section 22(1) of that Act shall be amended as follows.

(2) For the words “blood sample”, “blood samples” and “blood tests”, in each place where they occur, there shall be respectively substituted the words “bodily sample”, “bodily samples” and “scientific tests”.

(3) After paragraph (a) there shall be inserted the following paragraph—
“(aa) prescribe the bodily samples to be taken;”.

(4) In paragraph (d) after the words “any such illness” there shall be inserted the words “or condition or undergone any such treatment”.

(5) After paragraph (i) there shall be inserted the following paragraph—
“(j) make different provision for different cases or for different descriptions of case.”

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VALID FROM 01/04/2001

- 24 In section 23 of that Act—
- (a) in subsection (2), for the word “paternity” there shall be substituted the word “parentage”; and
 - (b) in subsection (3), for the words “blood sample” there shall be substituted the words “bodily sample”.

VALID FROM 01/04/2001

- 25 In section 24 of that Act, for the words “blood sample” there shall be substituted the words “bodily sample”.

The Children and Young Persons Act 1969 (c.54)

- 26 In section 70 of the Children and Young Persons Act 1969, after subsection (1A) there shall be inserted the following subsection—
- “(1B) In subsection (1A) of this section the reference to a child whose father and mother were not married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987 and “actual custody”, in relation to a child, means actual possession of his person.”

The Administration of Justice Act 1970 (c.31)

- 27 In Schedule 8 to the Administration of Justice Act 1970—
- [^{F5}(a) for paragraph 4(a) there shall be substituted—
- “(a) section 11B, 11C or 11D of the Guardianship of Minors Act 1971 or section 2(3) or 2(4A) of the Guardianship Act 1973 (payments for maintenance of persons who are or have been in guardianship);”;
- (b) paragraph 5 shall cease to have effect.

Textual Amendments

- F5** Sch. 2 paras. 12(a), 20, 27(a) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3), 125(7), **Sch. 20**

The Guardianship of Minors Act 1971 (c.3)

- 28 Without prejudice to any other amendment of the 1971 Act made by this Act, for the words “minor”, “minor’s” and “minors”, wherever occurring in that Act otherwise than in the expression “the Guardianship of Minors Act 1971”, there shall be substituted the words “child”, “child’s” and “children” respectively.

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- 29 In section 5(2) of that Act for the words from “notwithstanding” to the end there shall be substituted the words “ notwithstanding that parental rights and duties with respect to the child are vested in a local authority or a voluntary organisation by virtue of a resolution under section 3 or 64 of the ^{M4}Child Care Act 1980 ”.

Marginal Citations

M4 1980 c. 5.

- 30 In section 11A of that Act for the words “section 9(1), 10(1)(a) or 11(a)”, wherever they occur, there shall be substituted the words “ section 9 or 10 ”.
- 31 (1) Section 12 of that Act shall be amended as follows.
- (2) In subsection (1) for the words “an order made under section 9, 10 or 11 of this Act for the making of periodical payments” there shall be substituted the words “ an order for periodical payments made by virtue of section 11B(2)(a) or (b) or 11C(3)(a) or (b) of this Act ”.
- (3) In subsection (2) for paragraph (a) there shall be substituted the following paragraph—
- “(a) the child is, will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he also is, will be or would be in gainful employment; or”.
- (4) In subsection (3) for the words “Any order made under section 9, 10 or 11 of this Act requiring the making of periodical payments” there shall be substituted the words “ An order for periodical payments made by virtue of section 11B(2)(a) or 11C(3)(a) of this Act ”.
- 32 In section 12A of that Act for the words “section 9(2), 10(1)(b) or 11(b)” there shall be substituted the words “ section 11B, 11C or 11D ”.
- 33 (1) Section 12B of that Act shall be amended as follows.
- (2) In subsection (1) for the words “section 9(2), 10(1)(b) and 11(b)” there shall be substituted the words “ sections 11B and 11C ”, the words “in maintaining the minor” shall cease to have effect and there shall be added at the end the words “ being liabilities or expenses incurred in connection with the birth of the child or in maintaining the child ”.
- (3) In subsection (2) for the words “section 9(2), 10(1)(b) or 11(b)” there shall be substituted the words “ section 11B, 11C or 11D ”.
- (4) In subsections (3) and (5) for the words “section 9, 10 or 11”, in each place where they occur, there shall be substituted the words “ section 11B, 11C or 11D ”.
- (5) In subsection (3) after the words “for the making” there shall be inserted the words “ or securing ” and the words “ of a minor ” shall cease to have effect.
- 34 (1) Section 12C of that Act shall be amended as follows.
- (2) In subsections (1) to (3) for the words “section 9, 10 or 11” there shall be substituted the words “ section 11B, 11C or 11D ” and after the words “for the making” there shall be inserted the words “ or securing ”.

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- (3) In subsection (4) for the words “section 9, 10 or 11” there shall be substituted the words “ section 11B or 11C ” and after the words “for the making” there shall be inserted the words “ or securing ”.
- (4) For subsection (5) there shall be substituted the following subsections—
- “(5) Where an order for the making of periodical payments made under section 11B or 11C of this Act ceases to have effect on the date on which the child attains the age of sixteen or at any time after that date but before or on the date on which he attains the age of eighteen, the child may apply—
- (a) in the case of an order made by the High Court or a county court, to the court which made the order, or
 - (b) in the case of an order made by a magistrates’ court, to the High Court or a county court,
- for an order for the revival of the first mentioned order.
- (6) If on such an application it appears to the High Court or county court that—
- (a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he also is, will be or would be in gainful employment; or
 - (b) there are special circumstances which justify the making of an order under this subsection,
- the court shall have power by order to revive the first mentioned order from such date as the court may specify, not being earlier than the date of the making of the application.
- (7) Any order made under section 11B or 11C of this Act by the High Court or a county court which is revived by an order under subsection (5) above may be varied or discharged under section 11B or 11C of this Act, as the case may be, on the application of any person by whom or to whom payments are required to be made under the order.
- (8) Any order made under section 11B or 11C or this Act by a magistrates’ court which is revived by an order of the High Court or a county court under subsection (5) above—
- (a) for the purposes of the variation and discharge of the order, shall be treated as an order of the court by which it was revived and may be varied or discharged by that court on the application of any person by whom or to whom payments are required to be made under the order; and
 - (b) for the purposes of the enforcement of the order, shall be treated as an order of the magistrates’ court by which the order was originally made.”

35 After that section there shall be inserted the following section—

“12D Variation of orders for secured periodical payments after death of parent.

- (1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the

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deceased parent, and no application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.

- (2) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the deceased after the expiration of the period of six months referred to in subsection (1) of this section on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order; but this subsection shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this section.
- (3) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under section 12C(1) of this Act shall include the changed circumstances resulting from the death of that parent.
- (4) In considering for the purposes of subsection (1) of this section the question when representation was first taken out, a grant limited to settled land or to trust property shall be left out of account and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.
- (5) In this section “secured periodical payments order” means an order for secured periodical payments made by virtue of section 11B(2)(b) or 11C(3)(b) of this Act.”

36 In section 13 of that Act for subsection (3) there shall be substituted the following subsection—

“(3) Any order for the payment of money made by a magistrates’ court under this Act shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980”

37 In section 13A(1) of that Act, for the words “section 9(1), 10(1)(a) or 11(a)” there shall be substituted the words “section 9 or 10”.

38 After that section there shall be inserted the following section—

“13B Direction for settlement of instrument by conveyancing counsel.

Where the High Court or a county court decides to make an order under this Act for the securing of periodical payments or for the transfer or settlement of property, it may direct that the matter be referred to one of the conveyancing counsel of the court for him to settle a proper instrument to be executed by all necessary parties.”

39 Section 14 of that Act and the heading preceding that section shall cease to have effect.

40 (1) Section 14A of that Act shall be amended as follows.

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- (2) In subsection (1) for the words “section 9(1)” there shall be substituted the words “section 9”.
- (3) In subsection (3) for the words “section 9(1), 10(1)(a) or 11(a)” there shall be substituted the words “section 9 or 10”.
- (4) In subsection (5) for the words “the court has made an order under section 9(1)(a)” there shall be substituted the words “before 1st December 1985 the court has made an order under section 9”.
- 41 (1) Section 15A of that Act shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “section 9(2)(a) and (b)”, in both places where they occur, there shall be substituted the words “section 11B(2)(a) and (b)”; and
 - (b) the words from “notwithstanding” to “custody of the child” shall cease to have effect.
- (3) In subsection (2) for the words “section 9(2)”, in both places where they occur, there shall be substituted the words “section 11B(2)”.
- 42 In section 16(8) of that Act for the words “section 9(4), 10(2), 11(c), 12B(5) or 12C(5) of this Act or section 3(3) or 4(3A) or (3D)” there shall be substituted the words “section 9(1), 10(1) or 11B(1), 11C(1) or (2)(b), 11D(6), 12B(5) or 12C(2) of this Act or section 3(3) or 4(3A)”.
- 43 In section 20 of that Act for subsection (2) there shall be substituted the following subsections—
- “(2) In this Act, unless the context otherwise requires—
- “actual custody”, as respects a child, means the actual possession of the person of the child;
- “child”, except where used to express a relationship, means a person who has not attained the age of eighteen;
- “legal custody” shall be construed in accordance with Part IV of the Children Act 1975;
- “maintenance” includes education.
- (2A) In this Act—
- (a) references (however expressed) to any relationship between two persons; and
 - (b) references to the father and mother of a child not being married to each other at the time of his birth,
- shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”

The Attachment of Earnings Act 1971 (c.32)

- 44 In Schedule 1 to the Attachment of Earnings Act 1971—
- (a) for paragraph 5(a) there shall be substituted the following paragraph—
 - “(a) section 11B, 11C or 11D of the Guardianship of Minors Act 1971 or section 2(3) or 2(4A) of the Guardianship Act 1973 (payments for maintenance of persons who are or have been in guardianship);”;

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(b) paragraph 6 shall cease to have effect.

The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18)

45 In section 8 of the Maintenance Orders (Reciprocal Enforcement) Act 1972, for subsection (4) there shall be substituted the following subsection—

“(4) An order which by virtue of this section is enforceable by a magistrates’ court shall be enforceable as if it were a magistrates’ court maintenance order made by that court.

In this subsection “magistrates” court maintenance order’ has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980.”

46 In section 27 of that Act—

- (a) in subsection (2) for the words from “appointed for the commission area” to the words “as the case may be” there shall be substituted the words “acting for the petty session district”;
- (b) in subsection (9) the words “section 5(5) of the ^{M5}Affiliation Proceedings Act 1957” shall cease to have effect.

Marginal Citations

M5 1957 c.55.

47 In section 28 of that Act after “19(1)(ii)” there shall be inserted “ 20A ”.

48 In section 28A(3) of that Act, in paragraph (e) after “19(1)(ii)” there shall be inserted “ 20A ”.

49 (1) Section 30 of that Act shall be amended as follows.

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

“(1) Section 12C(5) of the Guardianship of Minors Act 1971 (revival by High Court or county court of orders for periodical payments) shall not apply in relation to an order made on a complaint for an order under section 11B of that Act.”

(3) In subsection (2) for the words “to which subsection (1) above applies” there shall be substituted the words “ for an order under section 11B of that Act ”.

(4) In subsection (3) the words “the Affiliation Proceedings Act 1957 or”, the words “paragraph (b) of section 2(1) of the said Act of 1957 (time for making complaint) or”, the words “(provision to the like effect) as the case may be”, the words “three years or” and the words “in the case of a complaint under the said Act of 1924” shall cease to have effect.

(5) In subsection (5) the words “the said Act of 1957 or” and the words “ as the case may be” shall cease to have effect.

(6) In subsection (6) the words “or an affiliation order under the said Act of 1957” shall cease to have effect.

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50 In section 33 of that Act, for subsection (3) there shall be substituted the following subsection—

“(3) An order which by virtue of subsection (1) above is enforceable by a magistrates’ court shall be enforceable as if it were a magistrates’ court maintenance order made by that court.

In this subsection “magistrates” court maintenance order’ has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980.”

[^{F6}51 (1) Section 41 of that Act shall be amended as follows.

(2) Subsection (1) shall cease to have effect.

(3) In subsection (2) for the words “section 9, 10 or 11” there shall be substituted the words “section 11B or 11C”.

(4) In subsection (2A), paragraph (a) shall cease to have effect and for paragraph (b) there shall be substituted the following paragraph—

“(b) an application made under section 11B or 11C of the Guardianship of Minors Act 1971 for the revocation or variation of an order for the periodical payment of money made under the said section 11B or 11C.”.

(5) In subsection (2B), paragraph (a) shall cease to have effect and in paragraph (b) for the words “section 9, 10 or 11” there shall be substituted the words “section 11B or 11C”.]

Textual Amendments

F6 Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

The Matrimonial Causes Act 1973 (c.18)

52 In section 27 of the Matrimonial Causes Act 1973 for subsection (6B) there shall be substituted the following subsection—

“(6B) Where a periodical payments order made in favour of a child under this section ceases to have effect on the date on which the child attains the age of sixteen or at any time after that date but before or on the date on which he attains the age of eighteen, then if, on an application made to the court for an order under this subsection, it appears to the court that—

- (a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he also is, will be or would be in gainful employment; or
- (b) there are special circumstances which justify the making of an order under this subsection,

the court shall have power by order to revive the first mentioned order from such date as the court may specify, not being earlier than the date of the making of the application, and to exercise its power under section 31 of this Act in relation to any order so revived.”

Status: Point in time view as at 01/02/1991. This version of this schedule contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Family Law Reform Act 1987, SCHEDULE 2. (See end of Document for details)

The Guardianship Act 1973 (c.29)

- 53 Without prejudice to any other amendment of Part I of the 1973 Act made by this Act, for the words “minor” and “minors”, wherever occurring in that Part otherwise than in the expression “the ^{M6}Guardianship of Minors Act 1971”, there shall be substituted the words “child” and “children” respectively.

Marginal Citations

M6 1971 c. 3.

- 54 (1) Section 2 of that Act shall be amended as follows.
- (2) For subsection (2) there shall be substituted the following subsection—
- “(2) Where an application is made under section 9 of the Guardianship of Minors Act 1971 for the legal custody of a child, then subject to sections 3 and 4 below—
- (a) if by virtue of the making of, or refusal to make, an order on that application the actual custody of the child is given to, or retained by, a parent of the child, but it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an independent person, the court may make an order that the child shall be under the supervision of a specified local authority or under the supervision of a probation officer;
- (b) if it appears to the court that there are exceptional circumstances making it impracticable or undesirable for the child to be entrusted to either of the parents, the court may commit the care of the child to a specified local authority.”
- (3) In subsection (3B) for the words “section 9(2)” there shall be substituted the words “section 11B”.
- (4) For subsections (4) and (5) there shall be substituted the following subsections—
- “(4) Subject to the provisions of this section, where an application is made under section 9 of the Guardianship of Minors Act 1971 the court, at any time before it makes a final order or dismisses the application, may, if by reason of special circumstances the court thinks it proper, make an interim order containing any such provision regarding the legal custody of and right of access to the child as the court has power to make under that section.
- (4A) Subject to the provisions of this section, where an application is made under section 11B of the Guardianship of Minors Act 1971, the court, at any time before it makes a final order or dismisses the application, may make an interim order requiring either parent to make to the other or to the child such periodical payments towards the maintenance of the child as the court thinks fit.
- (5) Where under section 16(4) of the Guardianship of Minors Act 1971 the court refuses to make an order on an application under section 9 or 11B of that Act on the ground that the matter is one that would more conveniently be dealt with by the High Court, the court shall have power—

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- (a) in the case of an application under section 9 of that Act, to make an order under subsection (4) above,
 - (b) in the case of an application under section 11B of that Act, to make an order under subsection (4A) above”.
- (5) In subsection (5B) for the words “section 9” there shall be substituted the words “section 11B”.
- (6) For subsection (5E) there shall be substituted the following subsection—
- “(5E) On an application under section 9 or 11B of the Guardianship of Minors Act 1971 the court shall not have power to make more than one interim order under this section with respect to that application, but without prejudice to the powers of the court under this section on any further such application.”
- (7) Subsection (6) shall cease to have effect.
- 55 In section 4 of that Act—
- (a) in subsection (3) after the words “section 9” there shall be inserted the words “ or 11B ”, and
 - (b) subsection (3D) shall cease to have effect.
- 56 (1) Section 5 of that Act shall be amended as follows.
- (2) For subsections (1) and (2) there shall be substituted the following subsections—
- “(1) There shall be no appeal under section 16 of the Guardianship of Minors Act 1971 from an interim order under subsection (4A) of section 2 above.
- (2) Section 9 of the Guardianship of Minors Act 1971 shall apply in relation to an interim order made under this Act on an application under that section as if the interim order had been made under that section.
- (2A) Section 13 of the Guardianship of Minors Act 1971 shall apply in relation to an interim order made under this Act as if the interim order had been made under that Act.”
- 57 In section 5A of that Act for subsections (1) and (2) there shall be substituted the following subsections—
- “(1) Where any of the following orders is made, that is to say—
- (a) an order under section 9 of the Guardianship of Minors Act 1971 which gives the right to the actual custody of a child to one of the parents of the child.
 - (b) an order under section 11B of that Act which requires periodical payments to be made or secured to a parent of the child,
 - (c) an interim order under section 2(4) above which gives the right to the actual custody of a child to a parent of the child,
 - (d) an interim order under section 2(4A) above which requires periodical payments to be made to a parent of the child,
- that order shall be enforceable notwithstanding that the parents of the child are living with each other at the date of the making of the order or that, although they are not living with each other at that date, they subsequently live with each other; but that order shall cease to have effect if after that date the parents of the child marry each other or live with each other for a period exceeding six months.

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- (2) Where any of the following orders is made, that is to say—
- (a) an order under section 11B of the Guardianship of Minors Act 1971 which requires periodical payments to be made or secured to a child,
 - (b) an order under section 2(2) or (3) above,
 - (c) an interim order under section 2(4A) requiring periodical payments to be made to a child,

then, unless the court otherwise directs, that order shall be enforceable notwithstanding that the parents of the child are living with each other at the date of the making of the order or that, although they are not living with each other at that date, they subsequently live with each other.

- (2A) Where an order is made under section 11D of the Guardianship of Minors Act 1971 requiring periodical payments to be made to a person who has attained the age of eighteen, then unless the court otherwise directs, that order shall be enforceable notwithstanding that the parents of that person, although they are not living with each other at the date of the order, subsequently live with each other.”

58 Before section 9 of that Act there shall be inserted the following section—

“8A Interpretation of Part I.

- (1) In this Part of this Act “child”, except where used to express a relationship, means a person who has not attained the age of eighteen.
- (2) In this Part of this Act—
- (a) references (however expressed) to any relationship between two persons; and
 - (b) references to the father and mother of a child not being married to each other at the time of his birth,

shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”

The Social Security Act 1975 (c.14)

59 At the end of section 25(1) of the Social Security Act 1975 there shall be added the words “or

- (c) if the woman and her late husband were residing together immediately before the time of his death, the woman is pregnant as the result of being artificially inseminated before that time with the semen of some person other than her husband.”

The Children Act 1975 (c.72)

60 In section 33 of the Children Act 1975, after subsection (9) there shall be inserted the following subsection—

- “(9A) In this Part of this Act references (however expressed) to any relationship between two persons shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”

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 Changes to legislation: There are currently no known outstanding effects for the
 Family Law Reform Act 1987, SCHEDULE 2. (See end of Document for details)*

- 61 (1) Section 34 of that Act shall be amended as follows.
- (2) Subsections (3) and (4) shall cease to have effect.
- (3) In subsection (5) for the words “(5A), (5B), (5C), (5D), (5E) and (6)” there shall be substituted the words “ (4A), (5A), (5B), (5C), (5D) and (5E) ” and for the words “section 2(2)(b) and (4)(a)” there shall be substituted the words “ section 2(2)(b) and (4A) ”.
- 62 In section 35 of that Act, for subsection (10) there shall be substituted the following subsections—
- “(10) Where an order under section 34(1)(b) ceases to have effect on the date on which the child attains the age of 16 or at any time after that date but before or on the date on which he attains the age of 18, the child may apply to an authorised court, other than a magistrates’ court, for an order for the revival of that order, and if, on such an application, it appears to the court that—
- (a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he also is, will be or would be in gainful employment; or
- (b) there are special circumstances which justify the making of an order under this subsection,
- the court shall have power by order to revive the order made under section 34(1)(b) from such date as the court may specify, not being earlier than the date of the making of the application and to vary or revoke under this section any order so revived.
- (10A) Any order made by a magistrates’ court under section 34(1)(b) which is revived by an order under subsection (10) shall for the purposes of the enforcement of the order be treated as an order made by the magistrates’ court by which the order was originally made.”

Modifications etc. (not altering text)

C1 Sch. 2 para. 62 restricted by S.I. 1989/382, art. 3, Sch. 2 para. 2

- 63 In section 36 of that Act, subsection (5A) shall cease to have effect.
- 64 In section 37(3) of that Act, for the words “section 9 (orders for custody and maintenance)” there shall be substituted the words “ section 9 (orders for custody) ”.
- 65 In section 43 of that Act, for subsection (3) there shall be substituted the following subsection—
- “(3) An order for the payment of money made by a magistrates’ court under section 34 shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980.”
- 66 Section 45 of that Act (affiliation order on application of custodian) shall cease to have effect.

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Changes to legislation: There are currently no known outstanding effects for the Family Law Reform Act 1987, SCHEDULE 2. (See end of Document for details)

[^{F7} The Adoption Act 1976 (c.36)]

Textual Amendments

F7 Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

67 At the end of section 18 of the Adoption Act 1976 there shall be added the following subsection—

“(8) In subsection (7) the reference to a child whose father and mother were not married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”

[^{F8}68 In section 72 of that Act, after subsection (1) there shall be inserted the following subsection—

“(1A) In the definition of “guardian” in subsection (1) the reference to a child whose father and mother were not married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”]

Textual Amendments

F8 Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

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

69 After section 20 of the Domestic Proceedings and Magistrates’ Courts Act 1978 there shall be inserted the following section—

“20A Revival of orders for periodical payments.

(1) Where an order made by a magistrates’ court under this Part of this Act for the making of periodical payments to or in respect of a child (other than an interim maintenance order) ceases to have effect on the date on which the child attains the age of 16 or at any time after that date but before or on the date on which he attains the age of 18, the child may apply to the High Court or a county court for an order for the revival of the order of the magistrates’ court, and if, on such an application, it appears to the High Court or county court that—

- (a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he also is, will be or would be in gainful employment; or
- (b) there are special circumstances which justify the making of an order under this subsection.the court shall have power by order to revive

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the first mentioned order from such date as the court may specify, not being earlier than the date of the making of the application.

- (2) Where an order made by a magistrates' court is revived by an order of the High Court or a county court under subsection (1) above, then—
- (a) for the purposes of the variation and discharge of the revived order, that order shall be treated as an order of the court by which it was revived and may be varied or discharged by that court on the application of any person by whom or to whom payments are required to be made under the order, and
 - (b) for the purposes of the enforcement of the revived order, that order shall be treated as an order of the magistrates' court by which the order was originally made.”

Modifications etc. (not altering text)

C2 Sch. 2 para. 69 restricted by S.I. 1989/382, art. 3, Sch. 2 para. 3

- 70 In section 32 of that Act, for subsection (1) there shall be substituted the following subsection—

“(1) An order for the payment of money made by a magistrates' court under this Part of this Act shall be enforceable as a magistrates' court maintenance order.”

- 71 In section 88(1) of that Act, after the definition of “local authority” there shall be inserted the following definition—

““magistrates” court maintenance order’ has the same meaning as in section 150(1) of the Magistrates' Courts Act 1980.”.

- 72 In Schedule 1 to that Act—

- (a) after paragraph 3 there shall be inserted the following paragraph—

“3A Any order for the payment of money in force under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 (including any such order made under that Act by virtue of paragraph 1 above) shall be enforceable as a magistrates' court maintenance order.”

- (b) in paragraph 4 for the words “paragraph 2 or 3” there shall be substituted the words “ paragraph 2, 3 or 3A ”.

The Interpretation Act 1978 (c.30)

- 73 At the end of Schedule 1 to the Interpretation Act 1978, there shall be added the following heading and entry—

“ Construction of certain references to relationships

In relation to England and Wales—

- (a) references (however expressed) to any relationship between two persons;
- (b) references to a person whose father and mother were or were not married to each other at the time of his birth; and
- (c) references cognate with references falling within paragraph (b) above,

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shall be construed in accordance with section 1 of the Family Law Reform Act 1987. [The date of the coming into force of that section]”.

- 74 In paragraph 4 of Schedule 2 to that Act, the words “earlier than the commencement of this Act” shall cease to have effect and after the word “specified”, wherever it occurs, there shall be inserted the words “ or described ”.

The Child Care Act 1980 (c.5)

- 75 In section 47 of that Act, for subsection (4) there shall be substituted the following subsections—

“(4) A contribution order shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980, except that any powers conferred on a magistrates’ court by that Act shall as respects a contribution order be exercisable, and exercisable only, by a magistrates’ court appointed for the commission area where the contributor is for the time being residing.

(5) Where a contribution order is made requiring the father of a child whose parents were not married to each other at the time of his birth to make contributions in respect of the child, the father shall keep the local authority to whom the contributions are required to be made informed of his address; and if he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.”

- 76 Sections 49 and 50 of that Act (affiliation orders) shall cease to have effect.

77 In section 55 of that Act—

- (a) subsection (3) shall cease to have effect;
(b) in subsection (5) the words from “and any jurisdiction conferred by this section in affiliation proceedings” to the end shall cease to have effect.

- 78 In section 86 of that Act for paragraphs (a) and (b) there shall be substituted the words “ of an order made by a court under section 47 or 48 of this Act ”.

- 79 (1) Section 87 of that Act shall be amended as follows.

(2) In subsection (1), in the definition of “relative” the words from “and includes” to the end shall cease to have effect.

- (3) After subsection (1) there shall be inserted the following subsection—

“(1A) In this Act—

- (a) references to a child whose father and mother were not married to each other at the time of his birth; and
(b) except in Part I and sections 13, 24, 64 and 65, references (however expressed) to any relationship between two persons,

shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”

The Magistrates’ Courts Act 1980 (c.43)

- 80 In section 58(2)(a) of the Magistrates’ Courts Act 1980, for the words “an affiliation order or order enforceable as an affiliation order” there shall be substituted the words “ a magistrates’ court maintenance order ”.

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 Family Law Reform Act 1987, SCHEDULE 2. (See end of Document for details)*

81 In section 64 of that Act, for subsection (4) there shall be substituted the following subsection—

“(4) Any costs awarded on a complaint for a maintenance order, or for the enforcement, variation, revocation, discharge or revival of such an order, against the person liable to make payments under the order shall be enforceable as a sum ordered to be paid by a magistrates’ court maintenance order.”

82 In section 65(1) of that Act, after paragraph (1) there shall be inserted the following paragraph—

“(m) section 4 or 15 of the Family Law Reform Act 1987;”.

83 In section 80(1) of that Act, for the words “an affiliation order or an order enforceable as an affiliation order” there shall be substituted the words “ a magistrates’ court maintenance order ”.

84 In section 93(1) of that Act, for the words “an affiliation order or order enforceable as an affiliation order” there shall be substituted the words “ a magistrates’ court maintenance order ”.

85 In section 94 of that Act, for the words “an affiliation order or order enforceable as an affiliation order” there shall be substituted the words “ a magistrates’ court maintenance order ”.

86 In section 95 of that Act, for the words “an affiliation order or an order enforceable as an affiliation order” there shall be substituted the words “ a magistrates’ court maintenance order ”.

87 In section 100 of that Act, for paragraph (b) there shall be substituted the following paragraph—

“(b) on any application made by or against that person for the making of a magistrates’ court maintenance order, or for the variation, revocation, discharge or revival of such an order”.

88 In section 150(1) of that Act—

- (a) the definition of “affiliation order” shall cease to have effect;
- (b) after the definition of “London Commission area” there shall be inserted the following definitions—

““magistrates’ court maintenance order” means a maintenance order enforceable by a magistrates’ court;

“maintenance order” means any order specified in Schedule 8 to the Administration of Justice Act 1970 and includes such an order which has been discharged, if any arrears are recoverable thereunder;”

The Civil Jurisdiction and Judgments Act 1982 (c.27)

89 (1) Section 5 of the Civil Jurisdiction and Judgments Act 1982 shall be amended as follows.

(2) After subsection (5) there shall be inserted the following subsection—

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“(5A) A maintenance order which by virtue of this section is enforceable by a magistrates’ court in England and Wales shall be enforceable in the same manner as a magistrates’ court maintenance order made by that court.

In this subsection “magistrates” court maintenance order’ has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980.”

(3) In subsection (6) the words “England and Wales or” shall cease to have effect.

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

90 In Schedule 3 to the Child Abduction and Custody Act 1985—

- (a) in paragraph 1(1)(d) for the words “section 9(1), 10(1)(a) or 11(a)” there shall be substituted the words “ section 9 or 10 ”;
- (b) in paragraph 1(1)(f) for the words “(4)(b) or (5)” there shall be substituted the words “ (4) or (5)(b) ”.

The Social Security Act 1986 (c.50)

91 In section 24 of the Social Security Act 1986 (recovery of expenditure on supplementary benefits from persons liable for maintenance), subsections (2) and (3) shall cease to have effect and for subsection (7) there shall be substituted the following subsection—

“(7) An order under this section shall be enforceable as a magistrates’ court maintenance order within the meaning of section 150(1) of the Magistrates’ Courts Act 1980.”

92 Section 25 of that Act (affiliation orders) shall cease to have effect.

93 In section 26 of that Act, for subsection (4) there shall be substituted the following subsection—

“(4) Any reference in subsection (3) above to a person’s children shall be construed in accordance with section 1 of the Family Law Reform Act 1987.”

The Family Law Act 1986 (c.55)

[^{F9}94 In section 1 of the Family Law Act 1986—

- (a) in subsection (1)(a)(i) for the words “section 9(1), 10(1)(a), 11(a)” there shall be substituted the words “section 9, 10” and for the words “section 2(4)(b) or 2(5)” there shall be substituted the words “section 2(4) or (5)(a)”;
- (b) in subsection (1)(a)(iv) for the words “section 2(4)(b)” there shall be substituted the words “section 2(4)”;
- (c) in subsection (4)(a) for the words “sections 9(1)” there shall be substituted the words “sections 9”]

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Textual Amendments

- F9** Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

- [^{F10}95 In section 3(5) of that Act for the words “section 9(1)” there shall be substituted the words “section 9”.]

Textual Amendments

- F10** Sch. 2 paras. 11, 14, 51, 67, 68, 94, 95 repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

- 96 At the end of section 60(2)(c) of that Act (supplementary provisions as to declarations) there shall be added the words “ and on persons who may be affected by any declaration applied for ”.

Status:

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