



# Family Law Act 1996

## CHAPTER 27

### FAMILY LAW ACT 1996

#### PART I

##### PRINCIPLES OF PARTS II AND III

- 1 The general principles underlying Parts II and III.

#### PART II

##### DIVORCE AND SEPARATION

###### *Court orders*

- 2 Divorce and separation.
- 3 Circumstances in which orders are made.
- 4 Conversion of separation order into divorce order.

###### *Marital breakdown*

- 5 Marital breakdown.
- 6 Statement of marital breakdown.

###### *Reflection and consideration*

- 7 Period for reflection and consideration.
- 8 Attendance at information meetings.
- 9 Arrangements for the future.

###### *Orders preventing divorce*

- 10 Hardship: orders preventing divorce.

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*Welfare of children*

- 11 Welfare of children.

*Supplementary*

- 12 Rules about procedure

*Resolution of disputes*

- 13 Directions with respect to mediation.  
14 Adjournments.

*Financial provision*

- 15 Financial arrangements.  
16 Division of pension rights: England and Wales.  
17 Division of pension assets: Scotland.  
18 Grounds for financial provision orders in magistrates' courts.

*Jurisdiction and commencement of proceedings*

- 19 Jurisdiction in relation to divorce and separation.  
20 Time when proceedings for divorce or separation begin.

*Intestacy*

- 21 Intestacy: effect of separation.

*Marriage support services*

- 22 Funding for marriage support services.  
23 Provision of marriage counselling.

*Interpretation*

- 24 Interpretation of Part II etc.  
25 Connected proceedings.

**PART III**

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- 26 Legal aid for mediation in family matters.  
27 Provision and availability of mediation.  
28 Payment for mediation.  
29 Mediation and civil legal aid.

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*Rights to occupy matrimonial or civil partnership home*

- 30 Rights concerning home where one spouse or civil partner has no estate, etc.  
31 Effect of home rights as charge on dwelling-house.  
32 Further provisions relating to home rights.

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### *Occupation orders*

- 33 Occupation orders where applicant has estate or interest etc. or has home rights.
- 34 Effect of order under s. 33 where rights are charge on dwelling-house.
- 35 One former spouse or former civil partner with no existing right to occupy.
- 36 One cohabitant or former cohabitant with no existing right to occupy.
- 37 Neither spouse or civil partner entitled to occupy.
- 38 Neither cohabitant or former cohabitant entitled to occupy.
- 39 Supplementary provisions.
- 40 Additional provisions that may be included in certain occupation orders.
- 41 Additional considerations if parties are cohabitants or former cohabitants.

### *Non-molestation orders*

- 42 Non-molestation orders.
- 42A Offence of breaching non-molestation order

### *Further provisions relating to occupation and non-molestation orders*

- 43 Leave of court required for applications by children under sixteen.
- 44 Evidence of agreement to marry or form a civil partnership.
- 45 Ex parte orders.
- 46 Undertakings.
- 47 Arrest for breach of order.
- 48 Remand for medical examination and report.
- 49 Variation and discharge of orders.

### *Enforcement powers of magistrates' courts*

- 50 Power of magistrates' court to suspend execution of committal order.
- 51 Power of magistrates' court to order hospital admission or guardianship.

### *Interim care orders and emergency protection orders*

- 52 Amendments of Children Act 1989.

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- 53 Transfer of certain tenancies.

### *Dwelling-house subject to mortgage*

- 54 Dwelling-house subject to mortgage.
- 55 Actions by mortgagees: joining connected persons as parties.
- 56 Actions by mortgagees: service of notice on certain persons.

### *Jurisdiction and procedure etc.*

- 57 Jurisdiction of courts.
- 58 Contempt proceedings.
- 59 Magistrates' courts.
- 60 Provision for third parties to act on behalf of victims of domestic violence.
- 61 Appeals.

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### *General*

- 62 Meaning of “cohabitants”, “relevant child” and “associated persons”.
- 63 Interpretation of Part IV.

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### FORCED MARRIAGE

#### *Forced marriage protection orders*

- 63A Forced marriage protection orders
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#### *Further provision about orders*

- 63D Ex parte orders: Part 4A
- 63E Undertakings instead of orders
- 63F Duration of orders
- 63G Variation of orders and their discharge

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- 63H Attachment of powers of arrest to orders
- 63I Arrest under attached powers
- 63J Arrest under warrant
- 63K Remand: general
- 63L Remand: medical examination and report

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- 63M Jurisdiction of courts: Part 4A
- 63N Power to extend jurisdiction to magistrates' courts
- 63O Contempt proceedings: Part 4A
- 63P Appeals: Part 4A

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- 63Q Guidance
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- 63S Interpretation of Part 4A

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### SUPPLEMENTAL

- 64 Provision for separate representation for children.
- 65 Rules, regulations and orders.
- 66 Consequential amendments, transitional provisions and repeals.
- 67 Short title, commencement and extent.

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## SCHEDULES

### SCHEDULE 1 — Arrangements for the future

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*The first exemption*

- 1 The circumstances referred to in section 9(7)(a) are that—

*The second exemption*

- 2 The circumstances referred to in section 9(7)(b) are that—

*The third exemption*

- 3 The circumstances referred to in section 9(7)(c) are that—

*The fourth exemption*

- 4 The circumstances referred to in section 9(7)(d) are that—

*Court orders and agreements*

- 5 (1) Section 9 is not to be read as requiring...

*Financial arrangements*

- 6 In section 9 and this Schedule “financial arrangements” has the...

*Negotiated agreements*

- 7 In section 9(2)(b) “negotiated agreement” means a written agreement between...

*Declarations*

- 8 (1) Any declaration of a kind mentioned in section 9—...

*Interpretation*

- 9 In this Schedule— “financial relief” has such meaning as may...

SCHEDULE 2 — Financial provision

*Introductory*

- 1 Part II of the 1973 Act (financial provision and property...

*The orders*

- 2 For section 21 and 21A (definitions) substitute— Financial provision orders,...

*Financial provision: divorce and separation*

- 3 Insert, before section 23— Financial provision orders: divorce and separation....

*Financial provision: nullity of marriage*

- 4 For section 23 substitute— Financial provision orders: nullity. (1) On or after granting a decree of nullity of...

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*Property adjustment orders: divorce and separation*

- 5 Insert, before section 24— Property adjustment orders: divorce and separation....

*Property adjustment orders: nullity*

- 6 For section 24, substitute— Property adjustment orders: nullity of marriage....

*Pension sharing orders: divorce and nullity*

- 6A For section 24B substitute— “Pension sharing orders: divorce. (1) On an application made under this section, the court...

*Period of secured and unsecured payments orders*

- 7 (1) In section 28(1) (duration of a continuing financial provision...

*Variations etc. following reconciliations*

- 8 Insert after section 31— Variation etc. following reconciliations. (1) Where, at a time before the making of a...

SCHEDULE 3 — Stay of proceedings

*Introductory*

- 1 Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973...

*Interpretation*

- 2 In paragraph 1, for “The following five paragraphs” substitute “...  
3 For paragraph 2 substitute— (1) “Matrimonial proceedings” means—  
(a) marital proceedings;  
4 Insert, after paragraph 4— (1) “Statement of marital breakdown” has the same meaning as...

*Duty to furnish particulars of concurrent proceedings*

- 5 For paragraph 7 substitute— (1) While marital proceedings are pending in the court with...

*Obligatory stays in divorce cases*

- 6 (1) Paragraph 8 is amended as follows.

*Discretionary stays*

- 7 (1) Paragraph 9 is amended as follows.

*Discharge of orders*

- 8 In paragraph 10, for sub-paragraph (2), substitute—

*Ancillary matters*

- 9 (1) Paragraph 11 is amended as follows.

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#### SCHEDULE 4 — Provisions supplementary to sections 30 and 31

##### *Interpretation*

- 1 In this Schedule “ legal representative ” means a person...

##### *Restriction on registration where spouse entitled to more than one charge*

- 2 Where one spouse or civil partner is entitled by virtue...

##### *Contract for sale of house affected by registered charge to include term requiring cancellation of registration before completion*

- 3 (1) Where one spouse or civil partner is entitled by...

##### *Cancellation of registration after termination of marriage or civil partnership, etc.*

- 4 (1) Where a spouse’s or civil partner’s home rights are...

##### *Release of home rights*

- 5 (1) A spouse or civil partner entitled to home rights...

##### *Postponement of priority of charge*

- 6 A spouse or civil partner entitled by virtue of section...

#### SCHEDULE 5 — Powers of High Court and county court to remand

##### *Interpretation*

- 1 In this Schedule “the court” means the High Court or...

##### *Remand in custody or on bail*

- 2 (1) Where a court has power to remand a person...

##### *Further remand*

- 3 (1) If the court is satisfied that any person who...

##### *Postponement of taking of recognizance*

- 4 Where under paragraph 2(1)(b)(ii) the court fixes the amount in...

#### SCHEDULE 6 — Amendments of Children Act 1989

- 1 After section 38 of the Children Act 1989 insert— Power...  
2 In section 39 of the Children Act 1989 (discharge and...  
3 After section 44 of the Children Act 1989 insert— Power...  
4 In section 45 of the Children Act 1989 (duration of...  
5 In section 105(1) of the Children Act 1989 (interpretation), after...

#### SCHEDULE 7 — Transfer of certain tenancies on divorce etc. or on separation of cohabitants

##### Part I — GENERAL

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### *Interpretation*

- 1 In this Schedule— “civil partner”, except in paragraph 2, includes...

#### *Cases in which the court may make an order*

- 2 (1) This paragraph applies if one spouse or civil partner...  
3 (1) This paragraph applies if one cohabitant is entitled, either...  
4 The court shall not make a Part II order unless...

#### *Matters to which the court must have regard*

- 5 In determining whether to exercise its powers under Part II...  
Part II — ORDERS THAT MAY BE MADE

#### *References to entitlement to occupy*

- 6 References in this Part of this Schedule to a spouse...

#### *Protected, secure or assured tenancy or assured agricultural occupancy*

- 7 (1) If a spouse , civil partner or cohabitant is...

#### *Statutory tenancy within the meaning of the Rent Act 1977*

- 8 (1) This paragraph applies if the spouse , civil partner...

#### *Statutory tenancy within the meaning of the Rent (Agriculture) Act 1976*

- 9 (1) This paragraph applies if the spouse , civil partner...  
Part III — SUPPLEMENTARY PROVISIONS

### *Compensation*

- 10 (1) If the court makes a Part II order, it...

#### *Liabilities and obligations in respect of the dwelling-house*

- 11 (1) If the court makes a Part II order, it...

#### *Date when order made between spouses or civil partners takes effect*

- 12 The date specified in a Part II order as the...

#### *Effect of remarriage or subsequent civil partnership*

- 13 (1) If after the grant of a decree dissolving or...

### *Rules of court*

- 14 (1) Rules of court shall be made requiring the court,...

#### *Saving for other provisions of Act*

- 15 (1) If a spouse or civil partner is entitled to...

SCHEDULE 8 — Minor and consequential amendments  
Part I — AMENDMENTS CONNECTED WITH PART II

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*The Wills Act 1837 (c. 26)*

1 In section 18A(1) of the Wills Act 1837 (effect of...

*The Judicial Proceedings (Regulation of Reports) Act 1926 (c. 61)*

2 In section 1(1)(b) of the Judicial Proceedings (Regulation of Reports)...

*The Maintenance Orders Act 1950 (c. 37)*

3 In section 16 of the Maintenance Orders Act 1950 (orders...

*The Matrimonial Causes Act 1973 (c. 18)*

- 4 The 1973 Act is amended as follows.  
5 In section 8 (intervention of Queen's Proctor)—  
6 For section 15 (application of provisions relating to divorce to...  
7 In section 19(4) (application of provisions relating to divorce to...  
8 In section 24A(1) (orders for sale of property), for "section...  
9 (1) Section 25 (matters to which the court is to...  
10 (1) Section 25A (requirement to consider need to provide for...  
11 In each of sections 25B(3) and 25C(1) and (3), for...  
11A In section 25D— (a) in each of subsections (1)(a) and...  
12 In section 26(1) (commencement of proceedings for ancillary relief),  
for...  
13 (1) Section 27 (financial provision orders etc. in case of...  
14 (1) Section 28 (duration of continuing financial provision order in...  
15 In section 29(1) (duration of a continuing financial provision order...  
16 (1) Section 31 (variation etc. of orders) is amended as...  
16A After section 31A insert— "Discharge of pension sharing orders on...  
17 In section 32(1) (payment of certain arrears to be unenforceable),...  
18 For section 33(2) (repayment of sums paid under certain orders)...  
19 (1) Section 33A (consent orders) is amended as follows.  
20 In section 35 (alteration of maintenance agreements), after  
subsection (6),...  
21 In section 37(1) (avoidance of transactions intended to prevent or...  
22 In section 47(2) (relief in cases of polygamous marriages)—  
23 Omit section 49 (under which a person who is alleged...  
24 (1) Section 52(1) (interpretation) is amended as follows.  
25 In section 52(2)(a), for "with section 21 above" substitute (subject...  
25A In section 52(2)(aa), for "section 21A" substitute "section 21".

*The Domicile and Matrimonial Proceedings Act 1973 (c. 45)*

26 For section 5(5) of the Domicile and Matrimonial Proceedings Act...

*The Inheritance (Provision for Family and Dependants) Act 1975 (c. 63)*

27 (1) The Inheritance (Provision for Family and Dependants) Act 1975...

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

28 (1) Section 28(1) of the Domestic Proceedings and Magistrates'  
Courts...

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*The Housing Act 1980 (c. 51)*

29 In section 54(2) of the Housing Act 1980 (prohibition of...

*Senior Courts Act 1981(c. 54)*

30 In section 18 of the Senior Courts Act 1981(restrictions on...

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

31 In section 18(6)(a) of the Civil Jurisdiction and Judgments Act...

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

32 (1) The Matrimonial and Family Proceedings Act 1984 is amended...

*The Finance Act 1985 (c. 54)*

33 In section 83(1) of the Finance Act 1985 (stamp duty...

*The Housing Act 1985 (c. 68)*

34 In each of sections 39(1)(c), 88(2), 89(3), 90(3)(a), 91(3)(b), 99B(2) (e),...

*The Housing Associations Act 1985 (c. 69)*

35 In paragraph 5(1)(c) of Schedule 2 to the Housing Associations...

*The Agricultural Holdings Act 1986 (c. 5)*

36 In paragraph 1(3) of Schedule 6 to the Agricultural Holdings...

*The Family Law Act 1986 (c. 55)*

37 (1) The Family Law Act 1986 is amended as follows....

*The Landlord and Tenant Act 1987 (c. 31)*

38 In section 4(2)(c) of the Landlord and Tenant Act 1987...

*The Legal Aid Act 1988 (c. 34)*

39 In paragraph 5A of Part II of Schedule 2 to...

*The Housing Act 1988 (c. 50)*

40 In paragraph 4(1)(c) of Schedule 11 (which refers to the...

*The Children Act 1989 (c. 41)*

41 (1) The Children Act 1989 is amended as follows.

*The Local Government and Housing Act 1989 (c. 42)*

42 In section 124(3)(c) of the Local Government and Housing Act...

*Pensions Act 1995 (c. 26)*

43 In section 166(4) of the Pensions Act 1995 (jurisdiction of...

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*The Welfare Reform and Pensions Act 1999*

- 43A In section 24 of the Welfare Reform and Pensions Act...  
Part II — AMENDMENTS CONNECTED WITH PART III

*The Legal Aid Act 1988 (c. 34)*

- 44 (1) The 1988 Act is amended as follows.  
Part III — AMENDMENTS CONNECTED WITH PART IV

*The Land Registration Act 1925 (c. 21)*

- 45 In section 64 of the Land Registration Act 1925 (certificates...)

*The Land Charges Act 1972 (c. 61)*

- 46 In section 1(6A) of the Land Charges Act 1972 (cases...  
47 In section 2(7) of that Act (Class F land charge)...

*The Land Compensation Act 1973 (c. 26)*

- 48 (1) Section 29A of the Land Compensation Act 1973 (spouses...)

*The Magistrates' Courts Act 1980 (c. 43)*

- 49 In section 65(1) of the Magistrates' Courts Act 1980 (meaning...)

*The Contempt of Court Act 1981 (c. 49)*

- 50 In Schedule 3 to the Contempt of Court Act 1981...

*Senior Courts Act 1981(c. 54)*

- 51 In Schedule 1 to the Senior Courts Act 1981(distribution of...)

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

- 52 For section 22 of the Matrimonial and Family Proceedings Act...

*The Housing Act 1985 (c. 68)*

- 53 (1) Section 85 of the Housing Act 1985 (extended discretion...  
54 In section 99B of that Act (persons qualifying for compensation...  
55 In section 101 of that Act (rent not to be...  
56 In section 171B of that Act (extent of preserved right...)

*The Insolvency Act 1986 (c. 45)*

- 57 (1) Section 336 of the Insolvency Act 1986 (rights of...  
58 (1) Section 337 of that Act is amended as follows....

*The Housing Act 1988 (c. 50)*

- 59 (1) Section 9 of the Housing Act 1988 (extended discretion...)

*The Children Act 1989 (c. 41)*

- 60 (1) In section 8(4) of the Children Act 1989 (meaning...)

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*The Courts and Legal Services Act 1990 (c. 41)*

61 .....

SCHEDULE 9 — Modifications, saving and transitional

*Transitional arrangements for those who have been living apart*

1 (1) The Lord Chancellor may by order provide for the...

*Modifications of enactments etc.*

2 (1) The Lord Chancellor may by order make such consequential...

3 If an Act or subordinate legislation— (a) refers to an...

*Expressions used in paragraphs 2 and 3*

4 In paragraphs 2 and 3— “decree” means a decree of...

*Proceedings under way*

5 (1) Except for paragraph 6 of this Schedule, nothing in...

6 (1) Section 31 of the 1973 Act has effect as...

*Interpretation*

7 In paragraphs 8 to 15 “the 1983 Act” means the...

*Pending applications for orders relating to occupation and molestation*

8 (1) In this paragraph and paragraph 10 “the existing enactments”...

*Pending applications under Schedule 1 to the Matrimonial Homes Act 1983*

9 Nothing in Part IV, Part III of Schedule 8 or...

*Existing orders relating to occupation and molestation*

10 (1) In this paragraph “an existing order” means any order...

*Matrimonial home rights*

11 (1) Any reference (however expressed) in any enactment, instrument  
or...

12 (1) Any reference (however expressed) in any enactment, instrument  
or...

13 In sections 30 and 31 and Schedule 4—

14 Neither section 31(11) nor the repeal by the Matrimonial Homes...

15 Nothing in this Schedule is to be taken to prejudice...

SCHEDULE 10 — Repeals

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**Changes and effects yet to be applied to :**

- s. 31(10) by 2002 c. 9 Sch. 11 para. 34(2)(a)
- s. 62(7)(b)(ii) repealed by S.I. 2011/1740 Sch. 1 Pt. 3
- s. 62(7)(c) and word inserted by S.I. 2011/1740 Sch. 1 para. 5(a)
- s. 62(8) inserted by S.I. 2011/1740 Sch. 1 para. 5(b)
- Sch. 4 para. 1 substituted by 2007 c. 29 Sch. 21 para. 121(a)
- Sch. 4 para. 3(3) words substituted by 2007 c. 29 Sch. 21 para. 121(b)
- Sch. 4 para. 5(2)(a) words substituted by 2007 c. 29 Sch. 21 para. 121(c)
- Sch. 8 para. 53 repealed by 2008 c. 17 Sch. 16
- Sch. 8 para. 59 and cross-heading repealed by 2008 c. 17 Sch. 16