

Status: Point in time view as at 31/07/2000. This version of this schedule contains provisions that are prospective.
Changes to legislation: Family Law Act 1996, SCHEDULE 8 is up to date with all changes known to be in force on or before 04 June 2023. 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 8

Section 66(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS CONNECTED WITH PART II

PROSPECTIVE

The Wills Act 1837 (c. 26)

^{F1}1

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **18(2)(e)**, 139(4)

PROSPECTIVE

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

^{F1}2

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **18(2)(e)**, 139(4)

PROSPECTIVE

The Maintenance Orders Act 1950 (c. 37)

^{F1}3

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Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

The Matrimonial Causes Act 1973 (c. 18)

PROSPECTIVE

4 The 1973 Act is amended as follows.

PROSPECTIVE

^{F15}

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

^{F16}

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

^{F17}

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

^{F18}

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Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

F19

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

F110

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

F111

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

F111A

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

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PROSPECTIVE

F112

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F113

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F114

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F115

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

- 16 (1) Section 31 (variation etc. of orders) is amended as follows.
- (2) In subsection (2)—
 - (a) after “following orders” insert “ under this Part of this Act ”;
 - (b) for paragraph (d) substitute—
 - “(d) an order for the payment of a lump sum in a case in which the payment is to be by instalments;”;

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- (c) in paragraph (dd), for “23(1)(c)” substitute “ 21(1)(c) ”;
- (d) after paragraph (dd) insert—
 - “(de) any other order for the payment of a lump sum, if it is made at a time when no divorce order has been made, and no separation order is in force, in relation to the marriage;”;
- (e) for paragraph (e) substitute—
 - “(e) any order under section 23A of a kind referred to in section 21(2)(b),(c) or (d) which is made on or after the making of a separation order;
 - (ea) any order under section 23A which is made at a time when no divorce order has been made, and no separation order is in force, in relation to the marriage;”.

(3) In subsection (4)—

- (a) for the words from “for a settlement” to “24(1)(c) or (d)”, substitute “ referred to in subsection (2)(e) ”; and
- (b) for paragraphs (a) and (b) substitute “ on an application for a divorce order in relation to the marriage ”.

(4) After subsection (4) insert—

“(4A) In relation to an order which falls within subsection (2)(de) or (ea) above (“the subsection (2) order”)—

- (a) the powers conferred by this section may be exercised—
 - (i) only on an application made before the subsection (2) order has or, but for paragraph (b) below, would have taken effect; and
 - (ii) only if, at the time when the application is made, no divorce order has been made in relation to the marriage and no separation order has been so made since the subsection (2) order was made; and
- (b) an application made in accordance with paragraph (a) above prevents the subsection (2) order from taking effect before the application has been dealt with.

(4B) No variation—

- (a) of a financial provision order made under section 22A above, other than an interim order, or
- (b) of a property adjustment order made under section 23A above, shall be made so as to take effect before the making of a divorce order or separation order in relation to the marriage, unless the court is satisfied that the circumstances of the case are exceptional, and that it would be just and reasonable for the variation to be so made.”

(5) In subsection (5)—

- (a) insert, at the beginning, “Subject to subsections (7A) to (7F) below and without prejudice to any power exercisable by virtue of subsection (2)(d), (dd) or (e) above or otherwise than by virtue of this section,”; and
- (b) for “section 23”, in each place, substitute “ section 22A or 23 ”.

(6) In subsection (7)(a)—

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- (a) for “on or after” to “consider” substitute “ in favour of a party to a marriage, the court shall, if the marriage has been dissolved or annulled, consider ”; and
- (b) after “sufficient” insert “ (in the light of any proposed exercise by the court, where the marriage has been dissolved, of its powers under subsection (7B) below) ”.

(7) After subsection (7), insert—

“(7A) Subsection (7B) below applies where, after the dissolution of a marriage, the court—

- (a) discharges a periodical payments order or secured periodical payments order made in favour of a party to the marriage; or
- (b) varies such an order so that payments under the order are required to be made or secured only for such further period as is determined by the court.

(7B) The court has power, in addition to any power it has apart from this subsection, to make supplemental provision consisting of any of—

- (a) an order for the payment of a lump sum in favour of a party to the marriage;
- (b) one or more property adjustment orders in favour of a party to the marriage;
- (c) a direction that the party in whose favour the original order discharged or varied was made is not entitled to make any further application for—
 - (i) a periodical payments or secured periodical payments order, or
 - (ii) an extension of the period to which the original order is limited by any variation made by the court.

(7C) An order for the payment of a lump sum made under subsection (7B) above may—

- (a) provide for the payment of that sum by instalments of such amount as may be specified in the order; and
- (b) require the payment of the instalments to be secured to the satisfaction of the court.

(7D) Subsections (7) and (8) of section 22A above apply where the court makes an order for the payment of a lump sum under subsection (7B) above as they apply where it makes such an order under section 22A above.

(7E) If under subsection (7B) above the court makes more than one property adjustment order in favour of the same party to the marriage, each of those orders must fall within a different paragraph of section 21(2) above.

(7F) Sections 24A and 30 above apply where the court makes a property adjustment order under subsection (7B) above as they apply where it makes such an order under section 23A above.”

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Commencement Information

I1 Sch. 8 para. 16 partly in force; Sch. 8 para. 16 not in force at Royal Assent see s. 67(3); Sch. 8 para. 16(5)(a)(6)(b)(7) in force at 1.11.1998 by S.I. 1998/2572, art. 3

PROSPECTIVE

F116A

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4)

PROSPECTIVE

F117

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4)

PROSPECTIVE

F118

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4)

PROSPECTIVE

F119

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4)

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PROSPECTIVE

F120

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F121

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F122

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F123

Textual Amendments
F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 18\(2\)\(e\)](#), 139(4)

PROSPECTIVE

F124

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Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

F125

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

F125A

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

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

F126

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

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

F127

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Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

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

^{F1}28

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

The Housing Act 1980 (c. 51)

^{F1}29

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

The Supreme Court Act 1981 (c. 54)

PROSPECTIVE

^{F1}30

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

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PROSPECTIVE

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

F131

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e), 139(4)**

PROSPECTIVE

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

F132

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e), 139(4)**

PROSPECTIVE

The Finance Act 1985 (c. 54)

F133

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e), 139(4)**

PROSPECTIVE

The Housing Act 1985 (c. 68)

F134

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e), 139(4)**

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PROSPECTIVE

The Housing Associations Act 1985 (c. 69)

F135

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

The Agricultural Holdings Act 1986 (c. 5)

F136

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

The Family Law Act 1986 (c. 55)

F137

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

The Landlord and Tenant Act 1987 (c. 31)

F138

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

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PROSPECTIVE

The Legal Aid Act 1988 (c. 34)

F139

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **18(2)(e)**, 139(4)

PROSPECTIVE

The Housing Act 1988 (c. 50)

F140

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **18(2)(e)**, 139(4)

PROSPECTIVE

The Children Act 1989 (c. 41)

F141

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **18(2)(e)**, 139(4)

PROSPECTIVE

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

F142

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), ss. **18(2)(e)**, 139(4)

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PROSPECTIVE

Pensions Act 1995 (c. 26)

^{F1}43

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

PROSPECTIVE

[^{F2} The Welfare Reform and Pensions Act 1999]

Textual Amendments

F2 Sch. 8 para. 43A and cross-heading immediately preceding it inserted (1.12.2000) by [1999 c. 30, s. 84](#), **Sch. 12 Pt. I para. 66(17)**; S.I. 2000/1116, **art. 2(f)**

^{F1}43A

Textual Amendments

F1 Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 18(2)(e)**, 139(4)

[^{F3}PART II

AMENDMENTS CONNECTED WITH PART III]

Textual Amendments

F3 Pt. II repealed (1.4.2000) by [1999 c. 22, s. 106](#), **Sch. 15 Pt. I** (with [Sch. 14 paras. 7\(2\), 36\(9\)](#)); S.I. 2000/774, **art. 2(c)**, **Sch.**

The Legal Aid Act 1988 (c. 34)

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- 44 (1) The 1988 Act is amended as follows.
- (2) In section 1, after “III” insert “ IIIA ”.

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- (3) In sections 1, 2(11), 3(2), 4(1), (2) and (4), 5(1) and (6), 6(2)(a) and (3)(a), 34(2) (c) and (d) and (11), 38(1) and (6) and 39(1) and (4)(a), after “assistance”, in each place, insert “, mediation”.
- (4) In section 3(9), after paragraph (a) insert—
“(aa) the provision of mediation;”.
- (5) In section 6, after subsection (3)(c) insert—
“(ca) any sum which is to be paid out of property on which it is charged under regulations under section 13C(5) below”.
- (6) In section 15—
(a) in subsection (1), after “(3D)” insert “ and (3F) ”; and
(b) in subsection (3D), after “(3)” insert “ and (3F) ”.
- (7) In section 16(9), leave out “and” at the end of paragraph (a).
- (8) In section 38—
(a) in subsection (1)(f), after “legal representatives” insert “ or mediators ”; and
(b) in subsection (6), after “legal representative” insert “ or mediator ”.
- (9) In section 43—
(a) after “ “assistance” ” insert “ , “mediation” ”
(b) after “(3)” insert “ , (3A) ”; and
(c) after the definition of “financial resources” insert—
“ “family matters” has the meaning assigned by section 13A(2);”.

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 to be produced and noted on dealings) in subsection (5) for “section 2(8) of the Matrimonial Homes Act 1983” substitute “ section 31(10) of the Family Law Act 1996 ” and for “rights of occupation” substitute “ matrimonial home rights ”.

The Land Charges Act 1972 (c. 61)

- 46 In section 1(6A) of the Land Charges Act 1972 (cases where county court has jurisdiction to vacate registration) in paragraph (d)—
(a) after “section 1 of the Matrimonial Homes Act 1983” insert “ or section 33 of the Family Law Act 1996 ”; and
(b) for “that section” substitute “ either of those sections ”.
- 47 In section 2(7) of that Act (Class F land charge) for “Matrimonial Homes Act 1983” substitute “ Part IV of the Family Law Act 1996 ”.

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The Land Compensation Act 1973 (c. 26)

- 48 (1) Section 29A of the Land Compensation Act 1973 (spouses having statutory rights of occupation) is amended as follows.
- (2) In subsection (1), for “rights of occupation (within the meaning of the Matrimonial Homes Act 1983)” substitute “matrimonial home rights (within the meaning of Part IV of the Family Law Act 1996)”.
- (3) In subsection (2)(a), for “rights of occupation” substitute “matrimonial home rights”.

The Magistrates’ Courts Act 1980 (c. 43)

- 49 In section 65(1) of the Magistrates’ Courts Act 1980 (meaning of family proceedings) after paragraph (o) insert—
- “(p) Part IV of the Family Law Act 1996;”.

The Contempt of Court Act 1981 (c. 49)

- 50 In Schedule 3 to the Contempt of Court Act 1981 (application of Magistrates’ Courts Act 1980 to civil contempt proceedings), in paragraph 3 for the words from “or, having been arrested” onwards substitute—
- “or, having been arrested under section 47 of the Family Law Act 1996 in connection with the matter of the complaint, is at large after being remanded under subsection (7)(b) or (10) of that section.”

The Supreme Court Act 1981 (c. 54)

- 51 In Schedule 1 to the Supreme Court Act 1981 (distribution of business in High Court), in paragraph 3 (Family Division)—
- (a) in paragraph (d), after “matrimonial proceedings” insert “or proceedings under Part IV of the Family Law Act 1996”, and
- (b) in paragraph (f)(i), for “Domestic Violence and Matrimonial Proceedings Act 1976” substitute “Part IV of the Family Law Act 1996”.

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

- 52 For section 22 of the Matrimonial and Family Proceedings Act 1984 substitute—

“22 Powers of court in relation to certain tenancies of dwelling-houses.

- (1) This section applies if—
- (a) an application is made by a party to a marriage for an order for financial relief; and
- (b) one of the parties is entitled, either in his own right or jointly with the other party, to occupy a dwelling-house situated in England or Wales by virtue of a tenancy which is a relevant tenancy within

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the meaning of Schedule 7 to the Family Law Act 1996 (certain statutory tenancies).

- (2) The court may make in relation to that dwelling-house any order which it could make under Part II of that Schedule if—
- (a) a divorce order,
 - (b) a separation order, or
 - (c) a decree of nullity of marriage,
- had been made or granted in England and Wales in respect of the marriage.
- (3) The provisions of paragraphs 10, 11 and 14(1) in Part III of that Schedule apply in relation to any order under this section as they apply to any order under Part II of that Schedule.”

The Housing Act 1985 (c. 68)

53 (1) Section 85 of the Housing Act 1985 (extended discretion of court in certain proceedings for possession) is amended as follows.

(2) In subsection (5)—

- (a) in paragraph (a), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “matrimonial home rights under Part IV of the Family Law Act 1996”; and
- (b) for “those rights of occupation” substitute “those matrimonial home rights”.

(3) After subsection (5) insert—

“(5A) If proceedings are brought for possession of a dwelling-house which is let under a secure tenancy and—

- (a) an order is in force under section 35 of the Family Law Act 1996 conferring rights on the former spouse of the tenant or an order is in force under section 36 of that Act conferring rights on a cohabitant or former cohabitant (within the meaning of that Act) of the tenant,
- (b) the former spouse, cohabitant or former cohabitant is then in occupation of the dwelling-house, and
- (c) the tenancy is terminated as a result of those proceedings,

the former spouse, cohabitant or former cohabitant shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any adjournment, stay, suspension or postponement in pursuance of this section as he or she would have if the rights conferred by the order referred to in paragraph (a) were not affected by the termination of the tenancy.”

54 In section 99B of that Act (persons qualifying for compensation for improvements) in subsection (2) for paragraph (f) substitute—

- “(f) a spouse, former spouse, cohabitant or former cohabitant of the improving tenant to whom the tenancy has been transferred by an order made under Schedule 1 to the Matrimonial Homes Act 1983 or Schedule 7 to the Family Law Act 1996.”

55 In section 101 of that Act (rent not to be increased on account of tenant’s improvements) in subsection (3) for paragraph (d) substitute—

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“(d) a spouse, former spouse, cohabitant or former cohabitant of the tenant to whom the tenancy has been transferred by an order made under Schedule 1 to the Matrimonial Homes Act 1983 or Schedule 7 to the Family Law Act 1996.”

- 56 In section 171B of that Act (extent of preserved right to buy: qualifying persons and dwelling-houses) in subsection (4)(b)(ii) after “Schedule 1 to the Matrimonial Homes Act 1983” insert “ or Schedule 7 to the Family Law Act 1996 ”.

The Insolvency Act 1986 (c. 45)

- 57 (1) Section 336 of the Insolvency Act 1986 (rights of occupation etc. of bankrupt’s spouse) is amended as follows.
- (2) In subsection (1), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “ matrimonial home rights under Part IV of the Family Law Act 1996 ”.
- (3) In subsection (2)—
- (a) for “rights of occupation under the Act of 1983” substitute “ matrimonial home rights under the Act of 1996 ”, and
- (b) in paragraph (b), for “under section 1 of that Act” substitute “ under section 33 of that Act ”.
- (4) In subsection (4), for “section 1 of the Act of 1983” substitute “ section 33 of the Act of 1996 ”.

- 58 (1) Section 337 of that Act is amended as follows.
- (2) In subsection (2), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “ matrimonial home rights under Part IV of the Family Law Act 1996 ”.
- (3) For subsection (3) substitute—
- “(3) The Act of 1996 has effect, with the necessary modifications, as if—
- (a) the rights conferred by paragraph (a) of subsection (2) were matrimonial home rights under that Act,
- (b) any application for such leave as is mentioned in that paragraph were an application for an order under section 33 of that Act, and
- (c) any charge under paragraph (b) of that subsection on the estate or interest of the trustee were a charge under that Act on the estate or interest of a spouse.”
- (4) In subsections (4) and (5) for “section 1 of the Act of 1983” substitute “ section 33 of the Act of 1996 ”.

The Housing Act 1988 (c. 50)

- 59 (1) Section 9 of the Housing Act 1988 (extended discretion of court in possession claims) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “ matrimonial home rights under Part IV of the Family Law Act 1996 ”, and

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(b) for “those rights of occupation” substitute “ those matrimonial home rights ”.

(3) After subsection (5) insert—

“(5A) In any case where—

- (a) at a time when proceedings are brought for possession of a dwelling-house let on an assured tenancy—
 - (i) an order is in force under section 35 of the Family Law Act 1996 conferring rights on the former spouse of the tenant, or
 - (ii) an order is in force under section 36 of that Act conferring rights on a cohabitant or former cohabitant (within the meaning of that Act) of the tenant,
- (b) that cohabitant, former cohabitant or former spouse is then in occupation of the dwelling-house, and
- (c) the assured tenancy is terminated as a result of those proceedings, the cohabitant, former cohabitant or former spouse shall have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above as he or she would have if the rights conferred by the order referred to in paragraph (a) above were not affected by the termination of the tenancy.”

The Children Act 1989 (c. 41)

- 60 (1) In section 8(4) of the Children Act 1989 (meaning of “family proceedings” for purposes of that Act), omit paragraphs (c) and (f) and after paragraph (g) insert—
“(h) the Family Law Act 1996.”
- (2) In Schedule 11 to that Act, in paragraph 6(a) (amendment of the ^{M1}Domestic Proceedings and Magistrates’ Courts Act 1978), for “sections 16(5)(c) and” substitute “ section ”.

Marginal Citations

M1 1978 c. 22.

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

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Textual Amendments

F4 Sch. 8 para. 61 repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 para. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

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