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STATUTORY INSTRUMENTS

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**1979 No. 731 (C. 15)**

**CHILDREN AND YOUNG PERSONS  
MATRIMONIAL CAUSES**

**The Domestic Proceedings and Magistrates' Courts  
Act 1978 (Commencement No. 3) Order 1979**

*Made* - - - - *26th June 1979*

In exercise of the powers conferred on me by section 89(3) and (4) of the Domestic Proceedings and Magistrates' Courts Act 1978, I hereby make the following Order:—

**1.**—(1) This Order may be cited as the Domestic Proceedings and Magistrates' Courts Act 1978 (Commencement No. 3) Order 1979.

(2) In this Order “the Act of 1978” means the Domestic Proceedings and Magistrates' Courts Act 1978.

**2.**—(1) Section 40 of the Act of 1978 (which amends the Guardianship of Minors Act 1971 in relation to access to minors by grandparents) and paragraphs 30 and 31 of Schedule 2 to that Act (which contain related amendments of sections 14(3) and 16(5) of the said Act of 1971) shall come into force on 17th September 1979.

(2) The provisions of the Act of 1978 specified in column 1 of Schedule 1 to this Order (which relate to the matters specified in column 2 thereof) shall come into force on 1st November 1979.

**3.** The transitional provisions in Schedule 2 to this Order shall have effect.

*W. S. I. Whitelaw*  
One of Her Majesty's Principal Secretaries of  
State  
Home Office

26th June 1979

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## SCHEDULE 1

Article 2(2)

PROVISIONS OF THE DOMESTIC PROCEEDINGS AND MAGISTRATES'  
COURTS ACT 1978 COMING INTO FORCE ON 1ST NOVEMBER 1979

<i>1</i>	<i>2</i>
<i>Provisions of the Act</i>	<i>Subject matter of provisions</i>
Section 16.	Powers of court to make orders for the protection of a party to a marriage or a child of the family.
Section 17.	Supplementary provisions with respect to orders under s. 16.
Section 18.	Powers of arrest for breach of s. 16 order.
Section 28.	Powers of High Court and county court in relation to certain orders under Part I.
Section 29(1), (2) and (5).	Appeals.
Section 30.	Provisions as to jurisdiction and procedure.
Part IV.	Amendments of the Magistrates' Courts Act 1952 (c. 55).
Section 84.	Reasons for decisions in domestic proceedings.
Section 85.	Periodical payments payable by one person under more than one order.
Section 88 (but not subsection (5) which came into force on 18th July 1978(1)).	Interpretation.
So much of Schedule 2 as is specified in Appendix A hereto.	Minor and consequential amendments.
So much of Schedule 3 as is specified in Appendix B hereto.	Repeals.

## APPENDIX A TO SCHEDULE 1

PROVISIONS OF SCHEDULE 2 TO THE DOMESTIC  
PROCEEDINGS AND MAGISTRATES' COURTS ACT  
1978 COMING INTO FORCE ON 1ST NOVEMBER 1979

- Paragraph 10 (amendment of section 13(4) of the Justices of the Peace Act 1949 (c. 101)).  
Paragraph 12 (amendment of section 15(1)(a) of the Maintenance Orders Act 1950 (c. 37)).  
Paragraph 21 (amendment of section 11(1) of the Administration of Justice Act 1964 (c. 42)).  
Paragraph 25 (amendment of Schedule 1 to the Administration of Justice Act 1970 (c. 31)).  
Paragraphs 38, 39 and 40 (amendment of sections 4(1), 47(2)(e) and 50(2)(b) of the Matrimonial Causes Act 1973 (c. 18)).

Paragraph 45(c) (insertion of sub-paragraph (h) in paragraph 3 of Schedule 1 to the Legal Aid Act 1974 (c. 4)).

## APPENDIX B TO SCHEDULE 1

### REPEALS TAKING EFFECT ON 1ST NOVEMBER 1979

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of repeal</i>
1948 c. 29.	National Assistance Act 1948.	In section 43, subsection (7).
1952 c. 55	Magistrates' Courts Act 1952.	In section 57, subsection (4).  In section 60, in subsection (1) the word "periodical" and the words "or in any proceedings in any matter of bastardy" and in subsection (2)(a) the words from "which shall be read aloud" to "at the hearing"  In section 61, the words "or in proceedings in any matter of bastardy".  Section 62.  In section 121, subsection (2).
1960 c. 48.	Matrimonial Proceedings (Magistrates' Courts) Act 1960.	In section 8, subsection (3).
1961 c. 39.	Criminal Justice Act 1961.	In Schedule 4, the entry relating to section 54 of the Magistrates' Courts Act 1952.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	In section 17, subsections (1) to (3). In the Schedule, paragraph 1.
1972 c. 49.	The Affiliation Proceedings (Amendment) Act 1972.	In section 3, subsection (1) and (2).
1975 c. 72.	The Children Act 1975.	In section 21, subsection (3).  In Schedule 3, paragraph 12.
1976 c. 36.	The Adoption Act 1976.	In section 64, paragraph (c).  In Schedule 3, paragraph 4.
1976 c. 71.	The Supplementary Benefits Act 1976.	In section 18(7) the words from "and any proceedings for such an order" to the end of the subsection.  In Schedule 7, the entry relating to section 43(7) of the National Assistance Act 1948.

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## SCHEDULE 2

Article 3

### TRANSITIONAL PROVISIONS

1. In this Schedule—
  - “the Act of 1960” means the Matrimonial Proceedings (Magistrates' Courts) Act 1960;
  - “the relevant date” means the date on which section 1 of the Act of 1978 comes into force.
2. In relation to an application made before the relevant date for an order under section 16 of the Act of 1978—
  - (a) that section shall have effect as if, in subsection (1), for the words “this Act” there were substituted the words “the Matrimonial Proceedings (Magistrates' Courts) Act 1960”;
  - (b) section 30(1) of the Act (which relates to jurisdiction) shall have effect as if for the words from “commission area” to the end there were substituted the words “petty sessions area for which the court acts or if the cause of the application arose wholly or partly within the said petty sessions area”.
3. In relation to an application made before the relevant date under section 17 of the Act of 1978 for the variation or revocation of an order under section 16, the said section 30(1) shall have effect as if for the words from “at the date” to the end there were substituted the words “the court made the order under section 16 of this Act to which the application relates”.
4. In relation to an application made before the relevant date under section 53 of the Magistrates' Courts Act 1952 for the variation of any order, section 76 of the Act of 1978 (which extends the power conferred by the said section 53) shall have effect as if, at the end of the paragraph thereby added to the said section 53, there were inserted the words “; but section 8(1) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 shall not apply in relation to this paragraph”.
5. In relation to an application made before the relevant date under the Act of 1960, section 79 of the Act of 1978 (which amends section 56 of the Magistrates' Courts Act 1952 as respects the meaning of domestic proceedings) shall have effect as if, in the subsection thereby substituted for subsection (1) of the said section 56, the reference to Part I of the Act of 1978 included a reference to the Act of 1960.
6. In relation to an application made before the relevant date under the Act of 1960, paragraph 12 of Schedule 2 to the Act of 1978 (which amends section 15(1)(a) of the Maintenance Orders Act 1950) shall have effect as if, in the sub-paragraph thereby substituted in the said section 15(1)(a), at the end there were inserted the words “or section 1(3) or 9(1) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960.”
7. In relation to an application made before the relevant date under the Act of 1960, paragraph 25 of Schedule 2 to the Act of 1978 (which amends Schedule 1 to the Administration of Justice Act 1970) shall have effect as if—
  - (a) the words substituted for the words “section 11 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960” included a reference to section 11 of the Act of 1960;
  - (b) the words substituted for the words “the Matrimonial Proceedings (Magistrates' Courts) Act 1960” in the second and third place where those words occur included a reference to the Act of 1960.
8. In relation to an application made before the relevant date under the Act of 1960, paragraphs 39 and 40 of Schedule 2 to the Act of 1978 (which amend sections 47(2)(e) and 50(2)(b) of the Matrimonial Causes Act 1973) shall have effect as if the words substituted for the words “the Matrimonial Proceedings (Magistrates' Courts) Act 1960” included in each case a reference to the Act of 1960.

## EXPLANATORY NOTE

This Order brings into force section 40 of the Domestic Proceedings and Magistrates' Courts Act 1978 (with its related amendments in Schedule 2) and the provisions of that Act mentioned in Schedule 1 to this Order on 17th September 1979 and 1st November 1979 respectively.

Schedule 2 to this Order contains transitional provisions adapting certain provisions of that Act under section 89(4) in consequence of the partial operation of the Act.

Other Orders bringing into force provisions of that Act were made by S.I. 1978/997, 1489 and (for Scotland) 1490.