

*Status: Point in time view as at 22/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Civil Partnership Act 2004 (c. 33). (See end of Document for details)*

## SCHEDULES

### SCHEDULE 11

#### TRANSFER OF JURISDICTION TO FAMILY COURT

##### PART 1

##### AMENDMENTS OF ENACTMENTS

##### *Civil Partnership Act 2004 (c. 33)*

161 The Civil Partnership Act 2004 is amended as follows.

##### Commencement Information

**II** Sch. 11 para. 161 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

162 For section 37(4)(b) (in Chapter 2 of Part 2 “the court” includes certain county courts) substitute—  
“(b) the family court.”

##### Commencement Information

**I2** Sch. 11 para. 162 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

163 In section 46(5)(a) (periods which may be treated for the purposes of section 44(5) (d) as periods during which respondent has deserted applicant) for “or a county court” substitute “, the family court or the county court”.

##### Commencement Information

**I3** Sch. 11 para. 163 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

164 In section 58 (application for declaration may be made to High Court or county court) for “a county court” substitute “ the family court ”.

##### Commencement Information

**I4** Sch. 11 para. 164 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- 165 (1) Section 66 (disputes between civil partners about property) is amended as follows.
- (2) For subsection (1)(b) (application may be made to county court prescribed by rules of court) substitute—
- “(b) the family court.”
- (3) Omit subsection (3) (no limits on jurisdiction of county court under subsection (2)).

**Commencement Information**

**I5** Sch. 11 para. 165 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 166 For section 220(b) (in sections 221 to 224 “the court” includes certain county courts) substitute—
- “(b) the family court.”

**Commencement Information**

**I6** Sch. 11 para. 166 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 167 (1) Part 2 of Schedule 1 (special provisions about civil partnerships which are prohibited unless paragraph 2(1) conditions are met) is amended as follows.
- (2) In paragraph 6(2) (civil partnership schedule not to be issued if alleged that paragraph 2(1) conditions not met, unless High Court declaration obtained under paragraph 7) omit “High Court”.
- (3) In paragraph 7 (application to High Court for declaration) after “High Court” insert “ or the family court ”.

**Commencement Information**

**I7** Sch. 11 para. 167 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 168 (1) Paragraph 15 of Schedule 2 (civil partnership of persons aged 16 or 17: meaning of “the court” and provision about rules of court) is amended as follows.
- (2) In sub-paragraph (1) (“the court” includes certain county courts and magistrates' courts)—
- (a) after paragraph (a) insert “ or ”, and
- (b) for paragraphs (b) and (c) substitute—
- “(c) the family court.”
- (3) In sub-paragraph (2) (rules of court)—
- (a) omit paragraph (b), and
- (b) in paragraph (c) for “a magistrates' court” substitute “ the family court ”.

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**Commencement Information**

- I8** Sch. 11 para. 168 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 169 Schedule 5 (financial relief in the High Court or a county court etc) is amended as follows.

**Commencement Information**

- I9** Sch. 11 para. 169 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 170 In paragraph 63(2) (payment of certain arrears under certain orders unenforceable without leave of the court) for “any county court” substitute “ the family court ”.

**Commencement Information**

- I10** Sch. 11 para. 170 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 171 (1) Paragraph 64 (orders for repayment in certain cases of sums paid under certain orders) is amended as follows.
- (2) In sub-paragraph (7) (application may be made in certain proceedings, or to county court) for “a county court”, in each place, substitute “ the family court ”.
- (3) Omit sub-paragraph (8) (no limits on jurisdiction of county court under sub-paragraph (7)).

**Commencement Information**

- I11** Sch. 11 para. 171 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 172 (1) Paragraph 65 (orders for repayment in certain cases of sums paid after cessation of order by reason of formation of subsequent civil partnership or marriage) is amended as follows.
- (2) In sub-paragraph (6) (application may be made in certain proceedings, or to county court) for “a county court”, in each place, substitute “ the family court ”.
- (3) Omit sub-paragraph (7) (no limits on jurisdiction of county court under sub-paragraph (6)).
- (4) In sub-paragraph (8)(a) (liability of court officers in respect of orders for periodical payments)—
- (a) for “the designated officer for a magistrates' court to whom any payments under a payments order are required to be made” substitute “ an officer of the family court ”, and

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(b) for “in pursuance of the payments order” substitute “ , in pursuance of a payments order requiring payments to be made to the court or an officer of the court, ”.

(5) In sub-paragraph (10) (interpretation) for paragraphs (b) and (c) substitute “or (aa) the officer of the family court,”.

**Commencement Information**

**I12** Sch. 11 para. 172 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 173 In paragraph 69 (alteration of maintenance agreements where both parties are living)—
- (a) in sub-paragraph (1) (courts to which application for alteration may be made) omit “or, subject to sub-paragraph (6), to a magistrates court”, and
  - (b) in sub-paragraph (6) (power to make order for alteration is subject to paragraphs 70 and 71) for “paragraphs 70 and” substitute “ paragraph ”.

**Commencement Information**

**I13** Sch. 11 para. 173 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 174 Omit paragraph 70 (limits on powers of magistrates' court to deal with applications for alterations).

**Commencement Information**

**I14** Sch. 11 para. 174 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 175 In paragraph 73 (alterations of maintenance agreements after death of one party)—
- (a) in sub-paragraph (2) (application for alteration may be made to High Court or county court) omit the words from “High” to “county”, and
  - (b) in sub-paragraph (4) (court's permission needed to make late application) omit the words from “High” to “county”.

**Commencement Information**

**I15** Sch. 11 para. 175 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 176 For paragraph 80(3)(b) (in Schedule 5 “the court” includes certain county courts) substitute—
- “(b) the family court.”

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**Commencement Information**

**I16** Sch. 11 para. 176 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

177 For the Schedule title substitute “ Financial relief: provision corresponding to provision made by Part 2 of the Matrimonial Causes Act 1973 ”.

**Commencement Information**

**I17** Sch. 11 para. 177 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

178 Schedule 6 (financial relief in magistrates' courts etc) is amended as follows.

**Commencement Information**

**I18** Sch. 11 para. 178 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

179 In paragraph 1(1) (grounds of application to magistrates' court for order for financial provision) for “a magistrates' court” substitute “ the family court ”.

**Commencement Information**

**I19** Sch. 11 para. 179 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

180 Omit paragraph 8 (refusal of order in case more suitable for High Court).

**Commencement Information**

**I20** Sch. 11 para. 180 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

181 In paragraph 9(1) (application for order for payments agreed between parties to a civil partnership) for “a magistrates' court” substitute “ the family court ”.

**Commencement Information**

**I21** Sch. 11 para. 181 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

182 In paragraph 15(1) (powers of court where parties living apart by agreement) for “a magistrates' court” substitute “ the family court ”.

**Commencement Information**

**I22** Sch. 11 para. 182 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- 183 (1) Paragraph 20 (circumstances in which interim orders may be made) is amended as follows.
- (2) In sub-paragraph (2) (circumstances in which magistrates' court may make order)—
- (a) for “A magistrates' court” substitute “ The family court ”, and
  - (b) omit paragraph (b) (interim order may be made on refusal of order on grounds that case more suitable for High Court) and the “or” preceding it.
- (3) Omit sub-paragraph (3) (circumstances in which High Court may make interim order).

**Commencement Information**

**I23** Sch. 11 para. 183 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 184 Omit paragraph 23 (interim orders: payments which can be treated as having been paid on account).

**Commencement Information**

**I24** Sch. 11 para. 184 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 185 (1) Paragraph 24 (when interim order ceases to have effect) is amended as follows.
- (2) In sub-paragraph (1)(c) (interim order ceases to have effect on final order of magistrates' court or dismissal of application) for “a magistrates' court” substitute “ the family court ”.
- (3) In sub-paragraph (2) (interim order may be continued in force by order of court)—
- (a) in paragraph (a) for “the magistrates' court which made the order, or” substitute “ the family court, ”, and
  - (b) omit paragraph (b).

**Commencement Information**

**I25** Sch. 11 para. 185 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 186 Omit paragraph 25(1) (interim order of High Court on ordering rehearing by magistrates' court to be treated, for certain purposes, as an order of that magistrates' court).

**Commencement Information**

**I26** Sch. 11 para. 186 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 187 In paragraph 29(6) (magistrates' court's power to determine date on which order ceased to have effect because the parties were living together) for “a magistrates' court” substitute “ the family court ”.

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**Commencement Information**

**I27** Sch. 11 para. 187 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

188 In paragraph 30 (variation, revocation, suspension and revival of orders for periodical payments) in each of sub-paragraphs (1) and (2) for “a magistrates' court” substitute “ the family court ”.

**Commencement Information**

**I28** Sch. 11 para. 188 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

189 In paragraph 31 (power to order lump sum on variation) in each of sub-paragraphs (1) and (2) for “a magistrates' court” substitute “ the family court ”.

**Commencement Information**

**I29** Sch. 11 para. 189 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

190 In paragraph 35(1) (powers exercisable on varying an order) for “59(3)(a) to (d) of the Magistrates' Courts Act 1980 (c. 43)” substitute “1(4) and (4A) of the Maintenance Enforcement Act 1991”.

**Commencement Information**

**I30** Sch. 11 para. 190 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

191 Omit paragraph 36 (variation by justices' clerk).

**Commencement Information**

**I31** Sch. 11 para. 191 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

192 In paragraph 37 (exercise of powers)—  
(a) in sub-paragraph (1) for “59(3)(a) to (d) of the 1980” substitute “ 1(4) and (4A) of the 1991 ”, and  
(b) omit sub-paragraph (2).

**Commencement Information**

**I32** Sch. 11 para. 192 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

193 In paragraph 38 (further provision about exercise of powers)—  
(a) in sub-paragraph (1)—

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- (i) for “59(4) of the 1980” substitute “ 1(6) of the 1991 ”,
  - (ii) for “paragraphs 35 and 36(4)” substitute “ paragraph 35 ”, and
  - (iii) for “59” substitute “ 1 of the 1991 Act ”, and
- (b) in sub-paragraph (2)—
- (i) omit “, or of a justices' clerk,”, and
  - (ii) for the words from “which” to the end substitute “ unless, at the time when the order was made, the person required to make the payments was ordinarily resident in England and Wales. ”

**Commencement Information**

**I33** Sch. 11 para. 193 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

194 In paragraph 39 (who may make application) for “, 31 or 36” substitute “ or 31 ”.

**Commencement Information**

**I34** Sch. 11 para. 194 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

195 In paragraph 40(1) (application by child for revival of periodical payments order) in the words before paragraph (a), for “a magistrates' court” substitute “ the family court ”.

**Commencement Information**

**I35** Sch. 11 para. 195 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

196 Omit paragraphs 41 and 42 (variation by, and other powers of, a magistrates' court).

**Commencement Information**

**I36** Sch. 11 para. 196 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 197 (1) Paragraph 44 (orders for repayment in certain cases of sums paid after cessation of order by reason of formation of subsequent civil partnership or marriage) is amended as follows.
- (2) In sub-paragraph (4) (court's power to order repayment or partial repayment, or to dismiss application) for “the court” substitute “ the family court ”.
- (3) In sub-paragraph (6) (application may be made in enforcement proceedings, or to county court)—
- (a) after “may” insert “ (but need not) ”,
  - (b) omit “in the High Court or a county court”, and
  - (c) omit the words after paragraph (a) (including the “but” at the end of that paragraph).

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- (4) Omit sub-paragraph (7) (no limits on jurisdiction of county court under sub-paragraph (6)).
- (5) In sub-paragraph (8) (liability of court officers)—
- (a) in paragraph (a)—
- (i) for “the designated officer for a magistrates' court to whom any payments under an order made under paragraph 2(1)(a), or Part 2 or 3, are required to be made” substitute “ an officer of the family court ”, and
- (ii) for “in pursuance of the order” substitute “ , in pursuance of an order under paragraph 2(1)(a), or Part 2 or 3, requiring payments to be made to the court or an officer of the court, ”, and
- (b) in paragraph (b)—
- (i) for “the order” substitute “ an order ”, and
- (ii) for “after that date” substitute “ , after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it, ”.

#### Commencement Information

**I37** Sch. 11 para. 197 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 198 In paragraph 46 (application of certain provisions of the Domestic Proceedings and Magistrates' Court Act 1978)—
- (a) in paragraph (a) (powers of the High Court and a county court in relation to certain orders) for “a county court” substitute “ the family court ”, and
- (b) omit paragraphs (b) and (c) (appeals and constitution of courts).

#### Commencement Information

**I38** Sch. 11 para. 198 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 199 (1) Paragraph 47 (jurisdiction and procedure) is amended as follows.
- (2) Omit sub-paragraph (1) (limits on powers of magistrates' courts to deal with applications for orders under Schedule 6).
- (3) In sub-paragraph (1A) (jurisdiction of magistrates' courts where jurisdiction to be determined by reference to the Maintenance Regulation etc) for “a magistrates' court” substitute “ the family court ”.
- (4) In sub-paragraph (2) (jurisdiction of magistrates' court exercisable notwithstanding that a party is not domiciled in England and Wales) for “a magistrates' court” substitute “ the family court ”.

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**Commencement Information**

**I39** Sch. 11 para. 199 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

200 For the Schedule title substitute “Financial relief: provision corresponding to provision made by the Domestic Proceedings and Magistrates’ Courts Act 1978”.

**Commencement Information**

**I40** Sch. 11 para. 200 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

201 In Schedule 7, in the definition of “the court” in paragraph 19 (in Schedule 7 “the court” includes certain county courts) for the words after “High Court” substitute “ or the family court ”.

**Commencement Information**

**I41** Sch. 11 para. 201 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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