# Domestic Proceedings and Magistrates' Courts Act 1978

**1978 CHAPTER 22**

## PART V

SUPPLEMENTARY PROVISIONS

**84, 85.** . . . . . F1

**Textual Amendments**

**F1** Ss. 84, 85 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 9**

**86** . . . . . F2

**Textual Amendments**

**F2** S. 86 repealed by Justices of the Peace Act 1979 (c. 55, SIF 82), s. 154(3), **Sch. 3**

**87 Expenses.**

There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any other enactment.

**88 Interpretation.**

(1) In this Act—

F3 . . . . . .

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"child", in relation to one or both of the parties to a marriage, includes **[**[F4]a child whose father and mother were not married to each other at the time of his birth**]**;

"child of the family", in relation to the parties to a marriage, means—

(a) a child of both of those parties; and

(b) any other child, not being a child who is **[**[F5]placed with those parties as foster parents**]** by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family;

"commission area" has the same meaning as in **[**[F6]the Justices of the Peace Act 1997**]**;

[F7] . . . . . .

"local authority" means the council of a county (other than a metropolitan county), of a metropolitan district or of a London borough, or the Common Council of the City of London;

[F7] . . . . . .

**[**[F8]"**[**[F9]maintenance assessment**]****[**[F9]maintenance calculation**]**" has the same meaning as it has in the Child Support Act 1991 by virtue of section 54 of that Act as read with any regulations in force under that section.**]**

**[**[F10]"petty sessions area" has the same meaning as in the Justices of the Peace Act 1997;**]**

[F11] . . . . . .

(2) References in this Act to the parties to a marriage living with each other shall be construed as references to their living with each other in the same household.

(3) For the avoidance of doubt it is hereby declared that references in this Act to remarriage include references to a marriage which is by law void or voidable.

[F12](4) . . . . . .

(5) Any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any subsequent enactment, including this Act.

**Textual Amendments**

**F3** Words in s. 88(1) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

**F4** Words in s. 88(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 43(a)**(with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

**F5** Words in s. 88(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 43(b)**(with Sch. 14 para. 1(1)); S.I.1991/828, **art. 3(2)**

**F6** Words in s. 88(1) substituted (19.6.1997) by virtue of 1997 c. 25, ss. 73(2), 74(1), **Sch. 5 para. 18(a)** (with Sch. 4 para. 27)

**F7** Words in s. 88(1) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 85(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F8** Definition in s. 88 inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para 9**.

**F9** Words in s. 88(1) substituted (3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(a)(2), **Sch. 3 para. 4(4)** (with s. 83(6)); S.I. 2003/192, art. 3, Sch.

**F10** Definition in s. 88(1) substituted (19.6.1997) by virtue of 1997 c. 25, ss. 73(2), 74(1), **Sch. 5 para. 18(b)** (with Sch. 4 para. 27)

**F11** Words in s. 88(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 1**, Sch. 8 para. 197(2); S.I. 2005/910, art. 3(y)

**F12** S. 88(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 85(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

## 89 Transitional provisions, amendments, repeals and commencement.

(1) The transitional provisions contained in Schedule 1 to this Act shall have effect.

[X1](2) Subject to the transistional provisions contained in Schedule 1 to this Act—

(a) the enactments specified in schedule 2 to this act shall have effect subject to the amendments specified in that Schedule (being minor amendments and amendments consequential on the preceding provisions of this act), and

(b) the enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint and different dates may be appointed for, or for different purposes of, different provisions.

(4) Without prejudice to the transitional provisions contained in Schedule 1 to this Act, an order under subsection (3) above may make such further transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of the provisions thereby brought into force or any provision of this Act then in force as appear to him to be necessary or expedient in consequence of the partial operation of this Act or the [M1]Children Act 1975.

(5) An order under subsection (3) above may repeal any provision of this Act which has ceased to have effect by reason of the coming into force of the [M2]Adoption Act 1976.

(6) The inclusion in this Act of any express transitional provision or amendment shall not be taken as prejudicing the general application of section 38 of the [M3]Interpretation Act 1889 with regard to the effect of repeals.

### Editorial Information

**X1** The text of s. 89(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Subordinate Legislation Made

**P1** Power of appointment conferred by s. 89(3) fully exercised: S.I. 1978/997, 1489, 1490; 1979/731; 1980/1478, 2036; 1985/779

### Marginal Citations

**M1** 1975 c. 72.

**M2** 1976 c. 36.

**M3** 1889 c. 63.

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## 90 Short title and extent.

(1) This Act may be cited as the Domestic Proceedings, and Magistrates' Courts Act 1978.

(2) Except for the following provisions, that is to say—

(a) sections 54, 55, 60, 61, 74(1) and (3), 87, 88(5), 89(2) (a), (3) and (4) and this section, and

(b) paragraphs 1, 12, 13, 14, 17 and 18 of Schedule 2

this Act does not extend to Scotland.

(3) Except for the following provisions, that is to say—

(a) sections 54, 59, 74(5), 88(5), 89(2), (3) and (4) and this section, and

(b) **[**[F13]paragraphs 12, 13, 14 and 33**]** of Schedule 2 and Schedule 3,

this Act does not extend to Northern Ireland, and in section 88(5) of this Act any reference to an enactment includes a reference to an enactment contained in an Act of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly.

**Textual Amendments**

**F13** Words in s. 90(3)(b) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 2(1), **Sch. 2 para.1**; S.I. 1993/618, **art.2**.

**Changes to legislation:**
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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 1(c)(d) repealed (prosp.) by 1996 c. 27 s. 18(1)66(3)Sch. 10