



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART II

#### CIVIL JURISDICTION AND PROCEDURE

##### *Domestic proceedings*

#### 65 Meaning of domestic proceedings.

- (1) In this Act “<sup>F1</sup>family proceedings]” means proceedings under any of the following enactments [<sup>F2</sup>and other instruments] , that is to say—
- (a) the <sup>M1</sup>Maintenance Orders (Facilities for Enforcement) Act 1920;
  - (b) <sup>F3</sup> .....
  - (c) section 3 of the <sup>M2</sup>Marriage Act 1949;
  - [<sup>F4</sup>(ca) Schedule 2 to the Civil Partnership Act 2004;]
  - (d) .....<sup>F5</sup>
  - <sup>F6</sup>(e) .....
  - [<sup>F7</sup>(ee) section 35 of the Matrimonial Causes Act 1973;]
  - [<sup>F8</sup>(ef) paragraphs 69 to 72 of Schedule 5 to the Civil Partnership Act 2004;]
  - (f) Part I of the <sup>M3</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972;
  - <sup>F6</sup>(g) .....
  - [<sup>F9</sup>(h) the Adoption and Children Act 2002;]
  - (i) section 18 <sup>F10</sup> of the <sup>M4</sup>Supplementary Benefits Act 1976;
  - (j) Part I of the <sup>M5</sup>Domestic Proceedings and Magistrates' Courts Act 1978;
  - [<sup>F11</sup>(ja) Schedule 6 to the Civil Partnership Act 2004;]
  - <sup>F12</sup>(k) .....
  - (l) section 60 of this Act;
  - [<sup>F13</sup>(m) Part I of the Civil Jurisdiction and Judgments Act 1982, so far as that Part relates to the recognition or enforcement of maintenance orders;]
  - <sup>F14</sup>(m) .....

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- <sup>F15</sup>(m) . . . . .
- <sup>F16</sup>(mm) section 55A of the <sup>M6</sup>Family Law Act 1986;]
- <sup>F17</sup>(n) the Children Act 1989]
- <sup>F18</sup>(nza) section 72 or section 79 of the Childcare Act 2006;]
- <sup>F19</sup>(nzb) sections 34 and 43 of the Children and Families (Wales) Measure 2010;]
- <sup>F20</sup>(na) section 54 of the Human Fertilisation and Embryology Act 2008;]
- <sup>F21</sup>[(nb)] section 106 of the Social Security Administration Act 1992;
- (o) section 20 (so far as it provides, by virtue of an order under section 45 <sup>F22</sup>, for appeals to be made to a court) <sup>F23</sup> . . . of the Child Support Act 1991; except that, subject to subsection (2) below, it does not include—
- (i) proceedings for the enforcement of any order made, confirmed [<sup>F24</sup>, registered or enforceable] under any of those enactments [<sup>F25</sup> or instruments] ;
- (ii) proceedings for the variation of any provision for the periodical payment of money contained in an order made, confirmed [<sup>F24</sup>, registered or enforceable] under any of those enactments [<sup>F25</sup> or instruments] ; or
- (iii) proceedings on an information in respect of the commission of an offence under any of those enactments.
- <sup>F26</sup>(p) Part IV of the Family Law Act 1996;]
- <sup>F27</sup>(q) sections 11 and 12 of the Crime and Disorder Act 1998;]
- <sup>F28</sup>(r) Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [<sup>F29</sup>, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the [<sup>F30</sup>European Union] and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJNo. L 299 16.11.2005 at p62)] , so far as that Regulation relates to the recognition or enforcement of maintenance orders;]
- <sup>F31</sup>(ra) Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;]
- <sup>F32</sup>(s) Council Regulation (EC) No 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, so far as that Regulation relates to jurisdiction, recognition and enforcement in parental responsibility matters;]
- <sup>F33</sup>(t) the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996;]
- <sup>F34</sup>(u) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007]
- (2) The court before which there fall to be heard any of the following proceedings, that is to say—
- (a) proceedings (whether under this Act or any other enactment) for the enforcement of any order made, confirmed [<sup>F35</sup>, registered or enforceable] under any of the enactments [<sup>F36</sup> or instruments] specified in paragraphs (a) to (k) [<sup>F37</sup>(m), (n) and [<sup>F38</sup>, (p) [<sup>F39</sup>, (r) [<sup>F40</sup>, (ra) and (u)]]]] of subsection (1) above;

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- (b) proceeding (whether under this Act or any other enactment) for the variation of any provision for the making of periodical payments contained in an order made, confirmed [<sup>F35</sup>, registered or enforceable] under any of those enactments [<sup>F41</sup>or instruments] ;
- (c) proceedings for an attachment of earnings order to secure maintenance payments within the meaning of the <sup>M7</sup>Attachment of Earnings Act 1971 or for the discharge or variation of such an order; or
- (d) proceedings for the enforcement of a maintenance order which is registered in a magistrates' court under Part II of the <sup>M8</sup>Maintenance Orders Act 1950 or Part I of the <sup>M9</sup>Maintenance Orders Act 1958 or for the variation of the rate of payments specified by such an order.
- <sup>F42</sup>(e) [<sup>F43</sup>proceedings under]]section 20 (so far as it provides, by virtue of an order under section 45, for appeals to be made to a court) <sup>F23</sup>. . .of the Child Support Act 1991.

may if it thinks fit order that those proceedings and any other proceedings being heard therewith shall, notwithstanding anything in subsection (1) above, be treated as [<sup>F1</sup>family proceedings]for the purposes of this Act.

- (3) Where the same parties are parties—
  - (a) to proceedings which are [<sup>F1</sup>family proceedings] by virtue of subsection (1) above, and
  - (b) to proceedings which the court has power to treat as [<sup>F1</sup>family proceedings] by virtue of subsection (2) above,

and the proceedings are heard together by a magistrates' court, the whole of those proceedings shall be treated as [<sup>F1</sup>family proceedings]for the purposes of this Act.

- (4) No appeal shall lie from the making of, or refusal to make, an order under subsection (2) above.
- (5) Until the <sup>M10</sup>Adoption Act 1976 comes into force subsection (1) above shall have effect as if for paragraph (h) thereof there were substituted the following paragraph—
  - “(h) The Adoption Act 1958, the Adoption Act 1960 or Part I of the Children Act 1975, except proceedings under section 42 or 43 of the Adoption Act 1958.”
- (6) Until the <sup>M11</sup>Child Care Act 1980 comes into force subsection (1) above shall have effect as if for paragraph (k) thereof there were substituted the following paragraph—
  - “(k) Section 87 or section 88 of the Children and Young Persons Act 1933 or section 26 of the Children Act 1948.”

#### Textual Amendments

- F1** Words in s. 65(1)(2)(3) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 92, 108(6), [Sch. 11 Pt. II para. 8\(c\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F2** Words in s. 65(1) inserted (1.11.2012) by [Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(S.I. 2010/1898\)](#), reg. 1(2), [Sch. para. 1\(a\)](#)
- F3** S. 65(1)(b) repealed (6.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 166, 170, [Sch. 15 Pt. 5](#) (subject to [Sch. 13](#)); S.I. 2009/462, [art. 4](#); S.I. 2009/631, [art. 2](#)
- F4** S. 65(1)(ca) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, [Sch. 27 para. 65\(1\)\(2\)](#); S.I. 2005/3175, [art. 2](#), Sch. 1

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- F5** S. 65(d) repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**
- F6** S. 65(e)(g) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**); S.I. 1991/828, **art. 3(2)**.
- F7** S. 65(ee) inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **s. 44**
- F8** S. 65(1)(ef) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 65(1)(3)**; S.I. 2005/3175, **art. 2**, Sch. 1
- F9** S. 65(1)(h) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 37 (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F10** Words repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**
- F11** S. 65(1)(ja) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 65(1)(4)**; S.I. 2005/3175, **art. 2**, Sch. 1
- F12** S. 65(k) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1, 82), ss. 116, 125(7), Sch. 16 para. 40, **Sch. 20**; S.I. 1991/1883, **art. 3**, **Sch.**
- F13** S. 65(1)(m) commencing "Part I of the Civil Jurisdiction and Judgments Act 1982" inserted (1.1.1987) by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 15(4), **Sch. 12 Pt. I para. 7(a)**
- F14** S. 65(1)(m) commencing "section 24" (which was added (E.W.S.) (11.4.1988) by Social Security Act 1986 (c. 50, SIF 113:1), s. 86(1), **Sch. 10 Pt. II para. 54**) repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), **Sch. 1** (subject as mentioned in Local Government Finance Act 1992 (c. 14), **s. 118**)
- F15** S. 65(1)(m) commencing 'section 4' (which was inserted (1.4.1989) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 82, Sch. 3 paras. 1, 6) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**); S.I. 1991/828, **art. 3(2)**
- F16** S. 65(1)(mm) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 2(2)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F17** S. 65(1)(n) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92(11), 108(6), **Sch. 11 Pt. II para. 8(a)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F18** S. 65(1)(nza) inserted (6.4.2007) by Childcare Act 2006 (c. 21), ss. 103(1), 109, **Sch. 2 para. 2**; S.I. 2007/1019, **art. 4**
- F19** S. 65(1)(nzb) inserted (1.4.2011) by Children and Families (Wales) Measure 2010 (nawm 1), s. 75(3), **Sch. 1 para. 2**; S.I. 2010/2582, **art. 2**, Sch. 1 (with Schs. 2, 3)
- F20** S. 65(1)(na) substituted (6.4.2010) by Human Fertilisation and Embryology Act 2008 (c. 22), s. 68(2), **Sch. 6 para. 20**; S.I. 2010/987, **art. 2(g)**
- F21** S. 65(1)(n) inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 60**
- F22** S.I. 1993/961 provides for appeals on parentage issues to be made to a court instead of to a child support appeals tribunal.
- F23** Words in s. 65(1)(o)(2)(e) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**
- F24** Words in s. 65(1)(o)(i)(ii) substituted (27.5.2011) by The Civil Jurisdiction and Judgments (Maintenance) (Rules of Court) Regulations 2011 (S.I. 2011/1215), regs. 1(1), **2(a)(ii)**
- F25** Words in s. 65(1)(i)(ii) inserted (1.11.2012) by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 (S.I. 2010/1898), reg. 1(2), **Sch. para. 1(c)**
- F26** S. 65(1)(p) inserted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 49** (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, **art. 3(1)(b)**
- F27** S. 65(1)(q) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 42**; S.I. 1998/2327, **art. 2(1)(y)(2)(o)**
- F28** S. 65(1)(r) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 11(a)**
- F29** Words in s. 65(1)(r) inserted (1.7.2007) by The Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/1655), regs. 1, 5, **Sch. para. 9**

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- F30** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F31** S. 65(1)(ra) inserted (27.5.2011) by The Civil Jurisdiction and Judgments (Maintenance) (Rules of Court) Regulations 2011 (S.I. 2011/1215), regs. 1(1), **2(a)(i)**
- F32** S. 65(1)(s) inserted (1.3.2005) by The European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005 (S.I. 2005/265), **art. 4**
- F33** S. 65(1)(t) inserted (1.11.2012) by Parental Responsibility and Measures for the Protection of Children (International Obligations) (England and Wales and Northern Ireland) Regulations 2010 (S.I. 2010/1898), reg. 1(2), **Sch. para. 1(b)**
- F34** S. 65(1)(u) inserted (31.7.2012) by The International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012 (S.I. 2012/1770), regs. 1(1), **2(a)**
- F35** Words in s. 65(2)(a)(b) substituted (27.5.2011) by The Civil Jurisdiction and Judgments (Maintenance) (Rules of Court) Regulations 2011 (S.I. 2011/1215), regs. 1(1), **2(c)**
- F36** Words in s. 65(2)(a) inserted (31.7.2012) by The International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012 (S.I. 2012/1770), regs. 1(1), **2(b)(i)**
- F37** Words in s. 65(2)(a) substituted (1.10.1997) by virtue of S.I. 1997/1898, **art. 2**
- F38** Words in s. 65(2)(a) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 11(b)**
- F39** Words in s. 65(2)(a) substituted (27.5.2011) by The Civil Jurisdiction and Judgments (Maintenance) (Rules of Court) Regulations 2011 (S.I. 2011/1215), regs. 1(1), **2(b)**
- F40** Words in s. 65(2)(a) substituted (31.7.2012) by The International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012 (S.I. 2012/1770), regs. 1(1), **2(b)(ii)**
- F41** Words in s. 65(2)(b) inserted (31.7.2012) by The International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012 (S.I. 2012/1770), regs. 1(1), **2(c)**
- F42** S. 65(2)(e) inserted (5.4.1993) by S.I. 1993/623, art. 3, **Sch. 2 para. 2**
- F43** Words in 65(2)(e) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 2(3)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**

#### Modifications etc. (not altering text)

- C1** S. 65 excluded (14.10.1991) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 60(3)**; S.I. 1991/2208, art. 2(1), **Sch. 1**  
S. 65 extended (30.9.1998) by 1998 c. 37, **s. 11(6)**; S.I. 1998/2327, **art. 2(1)(c)**
- C2** S. 65(1)(h) modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 5, **Sch. 4**

#### Marginal Citations

- M1** 1920 c. 33.  
**M2** 1949 c. 76  
**M3** 1972 c. 18.  
**M4** 1976 c. 71.  
**M5** 1978 c. 22.  
**M6** 1986 c. 55.  
**M7** 1971 c. 32.  
**M8** 1950 c. 37.  
**M9** 1958 c. 39  
**M10** 1976 c. 36.  
**M11** 1980 c. 5.

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