

## SCHEDULES

### SCHEDULE 1

Section 68(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS ACTS

##### *The Conjugal Rights (Scotland) Amendment Act 1861 (c. 86).*

- 1 In section 9 of the Conjugal Rights (Scotland) Amendment Act 1861—
- (a) after the words “decree make” there shall be inserted the words “an order making”;
  - (b) at the end there shall be added the following subsection—
    - “(2) An order made by a court under subsection (1) above may, on the application of any person concerned, be varied, recalled or set aside by a subsequent order by that court made at any time before the child concerned attains the age of sixteen.”

##### *The Guardianship of Infants Act 1886 (c. 27).*

- 2 In section 9 of the Guardianship of Infants Act 1886, in the paragraph beginning “In Ireland” for the words from “the county court” to the end there shall be substituted the words “any county court, except that provision may be made by county court rules that in the case of such applications to county courts as are prescribed by county court rules only such county courts as are so prescribed shall be authorised to hear those applications”.

##### *The Sheriff Courts (Scotland) Act 1907 (c. 51).*

- 3 In section 6 of the Sheriff Courts (Scotland) Act 1907, after the words “Act 1973” there shall be inserted the words “and Chapter III of Part I of the Family Law Act 1986”.

##### *The Matrimonial Proceedings (Children) Act 1958 (c. 40).*

- 4 In section 8(1) of the Matrimonial Proceedings (Children) Act 1958—
- (a) for the words from “custody” to “jurisdiction” there shall be substituted the words “custody the court has power”;
  - (b) at the end there shall be added the words “In this subsection “child” does not include a child with respect to whom the court has made an order under section 13(6) or 14(2) of the Family Law Act 1986”.
- 5 In section 9(1) of the said Act of 1958, for the words from “either forthwith” to “granted therein” there shall be substituted the words “, subject to section 13(2) of the Family Law Act 1986.”
- 6 In section 10(1) of the said Act of 1958, for the words from “custody” to “jurisdiction” there shall be substituted the words “custody the court has power”.

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- 7 In section 11(1) of that Act, for the words from “custody” to “jurisdiction” there shall be substituted the words “custody the court has power”.

*The Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 (c. 19).*

- 8 In section 8(6) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966, in the definition of “sheriff”—
- (a) after the word “means” there shall be inserted the words—
    - “(a) in relation to an order under subsection (1)(a), (b) or (c) above or an order varying any such order”;
  - (b) at the end there shall be added the words—
    - “(b) in relation to an order mentioned in subsection (1)(d) above or an order varying any such order, the sheriff having jurisdiction under section 9, 10 or 12 of the Family Law Act 1986.”

*The Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63).*

- 9 In section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (restriction of publicity for certain proceedings)—
- (a) in subsection (1) paragraph (a) shall cease to have effect and there shall be inserted at the end the following paragraph—
    - “(d) proceedings under Part III of the Family Law Act 1986”;
  - (b) in subsection (3) for the words “subsection (1)(a)” there shall be substituted the words “subsection (1)(d)”.

*The Guardianship of Minors Act 1971 (c. 3).*

- 10 (1) Section 15 of the Guardianship of Minors Act 1971 shall be amended as follows.
- (2) For subsection (1) there shall be substituted the following subsection—
- “(1) Subject to the provisions of this section “the court” for the purposes of this Act means the High Court, any county court or any magistrates' court, except that provision may be made by rules of court that in the case of such applications to a county court, or such applications to a magistrates' court, as are prescribed, only such county courts, or as the case may be such magistrates' courts, as are prescribed shall be authorised to hear those applications.”
- (3) After subsection (2) there shall be inserted the following subsections—
- “(2A) It is hereby declared that any power conferred on a magistrates' court under this Act is exercisable notwithstanding that any party to the proceedings is residing outside England and Wales.
  - (2B) Where any party to the proceedings on an application to a magistrates' court under this Act resides outside the United Kingdom and does not appear at the time and place appointed for the hearing of the application, the court shall not hear the application unless it is proved to the satisfaction of the court, in such manner as is prescribed, that such steps as are prescribed have been taken to give to that party notice of the application and of the time and place appointed for the hearing of it.

(2C) In this section “prescribed” means prescribed by rules of court.”

(4) Subsections (3) to (6) shall cease to have effect.

11 After section 15 of that Act there shall be inserted the following section—

**“15A Financial provision for minor resident in country outside England and Wales.**

(1) Where one parent of a minor resides in England and Wales and the other parent and the minor reside outside England and Wales, the court shall have power, on an application made by that other parent, to make one or both of the orders mentioned in section 9(2)(a) and (b) of this Act against the parent resident in England and Wales, notwithstanding that no order has been made under section 9(1) of this Act regarding the custody of the child; and in relation to such an application section 9(2)(a) and (b) shall have effect as if for any reference to the parent excluded from actual custody there were substituted a reference to the parent resident in England and Wales.

(2) Any reference in this Act to the powers of the court under section 9(2) of this Act or to an order made under the said section 9(2) shall include a reference to the powers which the court has by virtue of subsection (1) above or, as the case may be, to an order made by virtue of subsection (1) above.”

12 In section 17 of that Act subsection (2) shall cease to have effect.

*The Matrimonial Causes Act 1973 (c. 18).*

13 In section 41(1) of the Matrimonial Causes Act 1973, at the end of paragraph (b) there shall be inserted the following sub-paragraph—

“(iii) such arrangements have been made in respect of every child named in the order except any child with respect to whom the court has made an order under section 4(5) or 5(2) of the Family Law Act 1986 (orders precluding or staying proceedings for a custody order), or”.

14 In section 47 of that Act (declarations in respect of polygamous marriages), for subsection (3) there shall be substituted the following subsection—

“(3) In this section “a declaration concerning the validity of a marriage” means any declaration under Part III of the Family Law Act 1986 involving a determination as to the validity of a marriage”.

15 In section 50 of that Act (matrimonial causes rules)—

- (a) in subsection (1) at the end of paragraph (a) there shall be inserted the words “and Part III of the Family Law Act 1986”;
- (b) in subsection (2) in paragraph (a) for the words “38 or 45 above” there shall be substituted the words “or 38”, in paragraph (b) the words “proceedings in a county court under section 45 above or to” shall cease to have effect and in paragraph (c) the words “or to any aspect of section 47 above which is excepted by paragraph (b) above” shall cease to have effect.

*The Guardianship Act 1973 (c. 29).*

16 The following provisions of the Guardianship Act 1973 shall cease to have effect—

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- (a) in section 1(6), the words from “except that” to the end of the subsection;
- (b) in section 2(1), the words “15”, “and section 15(3) to (6)” and “they are”;
- (c) section 5(3);
- (d) in Part I of Schedule 2, paragraph 3;
- (e) in Part II of Schedule 2, the text of section 15(3) to (6) of the Guardianship of Minors Act 1971.

17 In section 1(6) of the said Act of 1973 for the words “15(1) to (3)” there shall be substituted the words “15(1) to (2A), section 15(2C)”.

18 In section 10(3) of that Act, for the words from “any sheriff” to “1886” there shall be substituted the words “the sheriff court”.

*The Children Act 1975 (c. 72).*

19 In section 33(1) of the Children Act 1975 the words “if the child is in England or Wales at the time the application is made” shall cease to have effect.

20 (1) Section 100 of that Act shall be amended as follows.

(2) In subsection (2) after the word “If” there shall be inserted the words “in the case of an application for any order other than an order under Part II of this Act”.

(3) For subsection (7) there shall be substituted the following subsection—

“(7) In the case of an application for an order under Part II of this Act, the following are authorised courts—

- (a) the High Court,
- (b) for the purposes of such applications under the said Part II as are prescribed by rules made under section 75 of the County Courts Act 1984, any county courts so prescribed in relation to those applications;
- (c) for the purposes of such applications under the said Part II as are prescribed by rules made under section 144 of the Magistrates' Courts Act 1980, any magistrates' court so prescribed in relation to those applications.”.

(4) In subsection (8) the words “or 42” shall cease to have effect.

*The Marriage (Scotland) Act 1977 (c. 15).*

21 In proviso (ii) to section 3(5) of the Marriage (Scotland) Act 1977 (certificate as to capacity to marry)—

- (a) after the word “above” there shall be inserted the word “(a)”; and
- (b) at the end there shall be added the words “or (b) if no such certificate has been issued only by reason of the fact that the validity of a divorce or annulment granted by a court of civil jurisdiction in Scotland or entitled to recognition in Scotland under section 44 or 45 of the Family Law Act 1986 is not recognised in the state in which the certificate would otherwise have been issued.”

22 In section 26(2) of the said Act of 1977 there shall be inserted in the appropriate alphabetical position the following definition—

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““annulment” includes any decree or declarator of nullity of marriage, however expressed.”

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

23 In section 8(2) of the Domestic Proceedings and Magistrates' Courts Act 1978, after the words “the said section 2, 6 or 7” there shall be inserted the words “(but subject to section 2 of the Family Law Act 1986)”.

24 In section 30(1) of the said Act of 1978, after the words “subject to” there shall be inserted the words “section 2 of the Family Law Act 1986 and”.

*The Supreme Court Act 1981 (c. 54).*

25 In section 26(b) of the Supreme Court Act 1981 the words “or jactitation of marriage” shall cease to have effect.

26 In paragraph 3 of Schedule 1 to that Act (business assigned to Family Division of the High Court) there shall be added at the end the following sub-paragraph—  
“(e) applications under Part III of the Family Law Act 1986.”

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

27 In section 32 of the Matrimonial and Family Proceedings Act 1984 (what is family business), in the definition of “matrimonial cause” for the words “judicial separation or jactitation of marriage” there shall be substituted the words “or judicial separation”.

*The Child Abduction and Custody Act 1985 (c. 60).*

28 In section 9 of the Child Abduction and Custody Act 1985 (suspension of court’s powers in cases of wrongful removal), after paragraph (a) there shall be inserted the following paragraph—

“(aa) enforcing under section 29 of the Family Law Act 1986 a custody order within the meaning of Chapter V of Part I of that Act;”.

29 In section 20(2) of the said Act of 1985 (suspension of court’s powers), after paragraph (a) there shall be inserted the following paragraph—

“(aa) in the case of proceedings under section 29 of the Family Law Act 1986 for the enforcement of a custody order within the meaning of Chapter V of Part I of that Act, enforce that order;”.

30 In section 27(1) of the said Act of 1985 (interpretation), in the definition of “custody order” after the word “means” there shall be inserted the words “(unless the contrary intention appears)”.

31 In paragraph 5 of Schedule 3 of the said Act of 1985 (custody orders in Scotland), after sub-paragraph (ii) there shall be inserted the following sub-paragraph—

“(ia) an order freeing a child for adoption made under section 18 of the Adoption (Scotland) Act 1978”.

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## ORDERS

### *The Matrimonial Causes (Northern Ireland) Order 1978 S.I. 1978/1045 (N.I. 15).*

- 32 In Article 44(1) of the Matrimonial Causes (Northern Ireland) Order 1978, at the end of sub-paragraph (b) there shall be inserted the following head—
- “(iii) such arrangements have been made in respect of every child named in the order except any child with respect to whom the court has made an order under section 21(5) or 22(2) of the Family Law Act 1986 (orders precluding or staying proceedings for a custody order); or”.

### *The Domestic Proceedings (Northern Ireland) Order 1980 S.I. 1980/563 (N.I. 5).*

- 33 In Article 10(2) of the Domestic Proceedings (Northern Ireland) Order 1980, after the words “that Article” there shall be inserted the words “(but subject to section 19 of the Family Law Act 1986)”.
- 34 In Article 32(1) of that Order, for the words “Without prejudice” there shall be substituted the words “Subject to section 19 of the Family Law Act 1986 and without prejudice”.

## SCHEDULE 2

Section 68(2).

### REPEALS

Chapter	Short title	Extent of repeal
31 & 32 Vict. c. 20.	The Legitimacy Declaration Act (Ireland) 1868.	Section 2.
47 & 48 Vict. c. 20.	The Greek Marriages Act 1884.	The whole Act.
49 & 50 Vict. c. 27.	The Guardianship of Infants Act 1886.	In section 9, the words from “court within” to “reside”.
16 & 17 Geo.5. c. 40.	Indian and Colonial Divorce Jurisdiction Act 1926.	The whole Act.
3 & 4 Geo. 6. c. 35.	Indian and Colonial Divorce Jurisdiction Act 1940.	The whole Act.
7 & 8 Geo. 6. c. 43.	Matrimonial Causes (War Marriages) Act 1944.	The whole Act.
10 & 11 Geo. 6. c. 30.	Indian Independence Act 1947.	Section 17.
11 & 12 Geo. 6. c. 3.	Burma Independence Act 1947.	Section 4(3).
11 & 12 Geo. 6. c. 7.	Ceylon Independence Act 1947.	Section 3. In Schedule 2, paragraph 9.

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Chapter	Short title	Extent of repeal
14 Geo. 6. c. 20.	Colonial and Other Territories (Divorce Jurisdiction) Act 1950.	The whole Act.
14 Geo. 6. c. 37.	The Maintenance Orders Act 1950.	Section 7.
6 & 7 Eliz. 2. c. 40.	The Matrimonial Proceedings (Children) Act 1958.	Section 13.
8 & 9 Eliz. 2. c. 52.	Cyprus Act 1960.	In the Schedule, paragraph 14.
8 & 9 Eliz. 2. c. 55.	Nigeria Independence Act 1960.	In Schedule 2, paragraph 14.
9 & 10 Eliz. 2. c. 16.	Sierra Leone Independence Act 1961.	In Schedule 3, paragraph 15.
10 & 11 Eliz. 2. c. 1.	Tanganyika Independence Act 1961.	In Schedule 2, paragraph 15.
10 & 11 Eliz. 2. c. 23.	South Africa Act 1962.	In Schedule 3, paragraph 9.
10 & 11 Eliz. 2. c. 40.	Jamaica Independence Act 1962.	In Schedule 2, paragraph 14.
10 & 11 Eliz. 2. c. 54.	Trinidad and Tobago Independence Act 1962.	In Schedule 2, paragraph 14.
10 & 11 Eliz. 2. c. 57.	Uganda Independence Act 1962.	In Schedule 3, paragraph 13.
1963 c. 54.	Kenya Independence Act 1963.	Section 7.
1964 c. 46.	Malawi Independence Act 1964.	Section 6.
1964 c. 65.	Zambia Independence Act 1964.	Section 7.
1966 c. 19.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1966.	In section 8(2), the words “made in a consistorial action”.
1966 c. 29.	Singapore Act 1966.	Section 2.
1968 c. 63.	The Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968.	Section 2(1)(a).
1969 c. 29.	Tanzania Act 1969.	Section 2. In section 4(3), the words “or the Divorce Jurisdiction Acts”. Section 7(1).

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Chapter	Short title	Extent of repeal
1971 c. 3.	The Guardianship of Minors Act 1971.	Section 15(3) to (6). Section 17(2).
1971 c. 53.	Recognition of Divorces and Legal Separations Act 1971.	The whole Act.
1973 c. 18.	The Matrimonial Causes Act 1973.	Section 45. In section 50(2), in paragraph (b), the words “proceedings in a county court under section 45 above or to” and, in paragraph (c), the words “or to any aspect of section 47 above which is excepted by paragraph (b) above”.
1973 c. 29.	The Guardianship Act 1973.	In section 1(6), the words from “except that” to the end. In section 2(1), the words “15”, “and section 15(3) to (6)” and “they are”. Section 5(3). In Schedule 2, in Part I, paragraph 3, and in Part II, the text of section 15(3) to (6) of the Guardianship of Minors Act 1971.
1973 c. 45.	Domicile and Matrimonial Proceedings Act 1973.	Section 2. Sections 15 and 16.
1973 c. 48.	The Pakistan Act 1973.	In section 4(5), the words from the beginning to “1940, and”.
1975 c. 72.	The Children Act 1975.	In section 33(1), the words from “if” to the end. In section 53(1), the words from “but where” to the end. Section 54. In section 100(8), the words “or 42”.
1981 c. 54.	The Supreme Court Act 1981.	In section 26(b), the words “or jactitation of marriage”.
1984 c. 42.	The Matrimonial and Family Proceedings Act 1984.	In Schedule 1, paragraph 14.

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Chapter	Short title	Extent of repeal
1985 c. 73.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.	Section 16.