

SCHEDULES

SCHEDULE 16

Section 116.

CHILDREN ACT 1989

PART I

AMENDMENT OF ACT AND OTHER ENACTMENTS AFFECTED

1 In this Part of this Schedule “the Act of 1989” means the Children Act 1989.

The Civil Evidence Act 1968 (c. 64)

2 (1) In section 12(5) of the Civil Evidence Act 1968 (findings of paternity in civil proceedings: meaning of “relevant proceedings”) for the definition of “relevant proceedings” there shall be substituted—

““relevant proceedings” means—

- (a) proceedings on a complaint under section 42 of the National Assistance Act 1948 or section 26 of the Social Security Act 1986;
- (b) proceedings under the Children Act 1989;
- (c) proceedings which would have been relevant proceedings for the purposes of this section in the form in which it was in force before the passing of the Children Act 1989.”

(2) Paragraph 24 of Schedule 13 to the Act of 1989 shall be omitted.

The Family Law Reform Act 1969 (c. 46)

3 In section 20 of the Family Law Reform Act 1969 (tests to establish paternity), which was amended by the Act of 1989 in relation to cases where the person whose paternity is in issue is under the age of eighteen, for subsection (1A) and the words preceding paragraph (a) in subsection (1B), there shall be substituted—

“(1A) An application for a direction under this section shall specify who is to carry out the tests.

(1B) A direction under this section shall”.

The Children and Young Persons Act 1969 (c. 54)

4 (1) Section 16 of the Children and Young Persons Act 1969 (provisions supplementary to section 15) shall be amended as follows.

(2) In subsection (3)—

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(a) for the words “relevant infant” there shall be substituted “supervised person”; and

(b) the words from “and the justice” to the end shall be omitted.

(3) After subsection (3) there shall be inserted the following subsections—

“(3A) Where a supervised person is brought before a justice under subsection (3) of this section, the justice may—

(a) direct that he be released forthwith; or

(b) subject to subsection (3C) of this section, remand him to local authority accommodation.

(3B) A justice who remands a person to local authority accommodation shall designate, as the authority who are to receive him, the authority named in the supervision order in respect of which the application or reference is being made.

(3C) Where the supervised person has attained the age of eighteen at the time when he is brought before the justice, he shall not be remanded to local authority accommodation but may instead be remanded—

(a) to a remand centre, if the justice has been notified that such a centre is available for the reception of persons under this subsection; or

(b) to a prison, if he has not been so notified.”

(4) For subsection (4) there shall be substituted the following subsection—

“(4) Where an application is made to a court under section 15(1) of this Act, the court may remand (or further remand) the supervised person to local authority accommodation if—

(a) a warrant has been issued under subsection (2) of this section for the purpose of securing the attendance of the supervised person before the court; or

(b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under section 15(1).”

(5) In subsections (5)(b) and (c) and (6)(a), after the word “12A”, in each place where it occurs, there shall be inserted “12AA”.

5 (1) Section 32 of that Act (detention of absentees), as amended by paragraph 27 of Schedule 12 to the Act of 1989, shall be further amended as follows.

(2) In the new subsection (1A), in paragraph (b)(ii), for the words “section 23(1)” there shall be substituted “section 16(3A) or 23(1)”.

(3) In the new subsection (1C), after the words “section 12AA” there shall be inserted “, 16(3B)”.

The Administration of Justice Act 1970 (c. 31)

6 (1) In paragraph 6 of Schedule 8 to the Administration of Justice Act 1970 (maintenance orders for purposes of Maintenance Orders Act 1958 and the 1970 Act) for the words “under section 47 or 51 of the Child Care Act 1980” there shall be substituted “—

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- (a) made or having effect as if made under paragraph 23 of Schedule 2 to the Children Act 1989; or
- (b) made under”.

(2) Paragraph 25 of Schedule 13 to the Act of 1989 shall be omitted.

The Adoption Act 1976 (c. 36)

7 In section 65A of the Adoption Act 1976 (which was inserted by paragraph 29 of Schedule 10 to the Act of 1989 and which makes similar provision with respect to the appointment of panels of guardians ad litem to that made by section 41 of the Act of 1989), the following subsection shall be added at the end—

- “(4) The Secretary of State may, with the consent of the Treasury, make such grants with respect to expenditure of any local authority—
- (a) in connection with the establishment and administration of guardian ad litem and reporting officer panels in accordance with section 65;
 - (b) in paying expenses, fees, allowances and in the provision of training for members of such panels,
- as he considers appropriate.”

The Child Care Act 1980 (c. 5)

8 After section 21(2) of the Child Care Act 1980 (power of local authority to allow child in care to be under charge and control of parent, etc.) there shall be inserted the following subsection—

- “(2A) For the purposes of subsection (2) above and section 22A below a child shall be regarded as being under the charge and control of a person if he stays with that person for a continuous period of more than 24 hours”.

The Education Act 1981 (c. 60)

9 (1) In section 3A(1) of the Education Act 1981 (provision outside England and Wales for certain children), which was inserted in that Act by paragraph 36 of Schedule 12 to the Act of 1989, after the word “local”, where it first occurs, there shall be inserted “education”.

(2) That amendment shall be deemed to have been incorporated in section 3A(1) as originally enacted.

The Children Act 1989 (c. 41)

10 (1) In section 15(1) of the Children Act 1989 (orders for financial relief with respect to children) after the words “provisions of” there shall be inserted “section 6 of the Family Law Reform Act 1969”.

(2) At the end of paragraph 1 of Schedule 1 to the Act of 1989 (financial provision for children) there shall be inserted the following sub-paragraph—

- “(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.”

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- 11 In section 21(2)(c)(i) of the Act of 1989 (provision of accommodation for children on remand) after the word “section” there shall be inserted “16(3A) or”.
- 12 (1) In section 23 of the Act of 1989 (provision of accommodation and maintenance made by local authority for children whom they are looking after), in subsection (2)(e) after the word “provided” there shall be inserted “in accordance with arrangements made”.
- (2) After subsection (5) of that section there shall be inserted the following subsection—
- “(5A) For the purposes of subsection (5) a child shall be regarded as living with a person if he stays with that person for a continuous period of more than 24 hours”.
- 13 At the end of section 24 of the Act of 1989 (advice and assistance) there shall be added the following subsections—
- “(14) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by a person qualifying for advice and assistance about the discharge of their functions under this Part in relation to him.
- (15) In carrying out any consideration of representations under subsection (14), a local authority shall comply with any regulations made by the Secretary of State for the purposes of this subsection.”
- 14 In section 27 of the Act of 1989 (co-operation between authorities)—
- (a) in subsection (1) the words “or other person” and the words “or person” shall be omitted; and
- (b) in subsection (3) for the word “persons” there shall be substituted “authorities” and after the words “health authority” there shall be inserted “or National Health Service trust”.
- 15 In section 29 of the Act of 1989 (recoupment of cost of providing services etc.), in subsection (9), for the words “expenses reasonably” there shall be substituted “reasonable expenses”.
- 16 In section 37 of the Act of 1989 (powers of court in certain family proceedings), in subsection (5)(b) for the words “does not reside” there shall be substituted “is not ordinarily resident”.
- 17 In section 41 of the Act of 1989 (appointment of guardian ad litem for child in certain proceedings), the following subsection shall be added at the end—
- “(12) The Secretary of State may, with the consent of the Treasury, make such grants with respect to expenditure of any local authority—
- (a) in connection with the establishment and administration of guardian ad litem panels in accordance with this section;
- (b) in paying expenses, fees, allowances and in the provision of training for members of such panels, as he considers appropriate.”
- 18 (1) Section 42 of the Act of 1989 (right of guardian ad litem to have access to local authority records) shall be amended as follows.
- (2) In subsection (1)(a), after the word “authority” there shall be inserted “or an authorised person”.
- (3) At the end of subsection (1) there shall be added—

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“; or

- (c) any records of, or held by, an authorised person which were compiled in connection with the activities of that person, so far as those records relate to that child.”

(4) The following subsection shall be added at the end—

“(4) In this section “authorised person” has the same meaning as in section 31.”

19 For section 45(10) of the Act of 1989 (appeals against emergency protection orders) there shall be substituted—

“(10) No appeal may be made against—

- (a) the making of, or refusal to make, an emergency protection order;
- (b) the extension of, or refusal to extend, the period during which such an order is to have effect;
- (c) the discharge of, or refusal to discharge, such an order; or
- (d) the giving of, or refusal to give, any direction in connection with such an order.”

20 In section 47(11)(d) of the Act of 1989 (persons obliged to assist local authority investigations), after the words “health authority” there shall be inserted “or National Health Service trust”.

21 In section 81 of the Act of 1989 (power of Secretary of State to hold inquiries), in subsection (1)(d) the word “registered” shall be omitted and in subsection (1)(f) after the word “provided” there shall be inserted “in accordance with arrangements made”.

22 In section 93(2) of the Act of 1989 (rules of court)—

- (a) in paragraph (f) for the words “the United Kingdom” there shall be substituted “England and Wales”; and
- (b) in paragraph (g) after the word “is” there shall be inserted “or resides”.

23 In section 94(1) (appeals), for the first word “An” there shall be substituted “Subject to any express provisions to the contrary made by or under this Act, an”.

24 In section 97(8) of the Act of 1989 (privacy for children involved in certain proceedings) for the words “Section 71 of the Act of 1980 (newspaper reports of certain proceedings)” there shall be substituted “Sections 69 (sittings of magistrates' courts for family proceedings) and 71 (newspaper reports of certain proceedings) of the Act of 1980”.

25 In section 108(12) of the Act of 1989 (provisions extending to Northern Ireland), in the entry relating to Schedule 14, the word “18” shall be omitted.

26 In paragraph 14 of Schedule 2 to the Act of 1989 (regulations as to conditions under which child in care is allowed to live with parent, etc.), the following sub-paragraph shall be added at the end—

“(d) the records to be kept by local authorities.”

27 In Schedule 3 to the Act of 1989 (supervision orders) paragraph 7 shall be omitted.

28 (1) In Schedule 4 to the Act of 1989 (management and conduct of community homes) the word “voluntary” wherever it occurs in paragraph 1(1), (2), (4), (5), (8) and (9) shall be omitted.

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- (2) In paragraph 1(6)(b)(i) of that Schedule, the words “as a voluntary home” shall be omitted.
- 29 In paragraph 3(1) of Schedule 6 to the Act of 1989 (registered children’s homes – meaning of “responsible authority”) for the word “Part” there shall be substituted “Schedule”.
- 30 (1) Paragraph 2 of Schedule 9 to the Act of 1989 (disqualification from registration as child minder etc. under section 71) shall be amended as follows.
- (2) In sub-paragraph (1), there shall be added at the end “unless—
- (a) he has disclosed the fact to the appropriate local authority; and
 - (b) obtained their written consent.”
- (3) In sub-paragraph (2)(g), for “61” there shall be substituted “69”.
- 31 In Schedule 12 to the Act of 1989 (minor amendments), paragraph 25 (which amended section 16 of the Children and Young Persons Act 1969) shall be omitted.
- 32 In Schedule 13 to the Act of 1989 (consequential amendments), paragraph 40 shall be omitted.
- 33 (1) Schedule 14 to the Act of 1989 (transitionals and savings) shall be amended as follows.
- (2) In paragraph 15 (children in compulsory care) at the end of sub-paragraph (1) there shall be added “; or—
- (h) in care by virtue of an order of the court made in the exercise of the High Court’s inherent jurisdiction with respect to children,”.
- (3) In paragraph 16 (modifications)—
- (a) in sub-paragraph (4), for the word “(g)” there shall be substituted “(h)”; and
 - (b) in sub-paragraph (5) for the words from “under” to “1973” there shall be substituted “—
 - (a) under section 4(4)(a) of the Guardianship Act 1973;
 - (b) under section 43(5)(a) of the Matrimonial Causes Act 1973;
 - or
 - (c) in the exercise of the High Court’s inherent jurisdiction with respect to children,”.
- (4) After paragraph 16 there shall be inserted the following paragraph—
- “Cessation of wardship where ward in care*
- 16A Where a child who is a ward of court is in care by virtue of—
- (a) an order under section 7(2) of the Family Law Reform Act 1969;
 - or
 - (b) an order made in the exercise of the High Court’s inherent jurisdiction with respect to children,
- he shall, on the day on which Part IV commences, cease to be a ward of court.”
- (5) In paragraph 22(a) for the word “(g)” there shall be substituted “(h)”.

- (6) In paragraph 36(5)(b) for the words “subsection (4)” there shall be substituted “subsection (6)”.

PART II

FURTHER CONSEQUENTIAL AMENDMENTS

The Maintenance Orders Act 1950 (c. 37)

- 34 In section 15(1)(a) of the Maintenance Orders Act 1950 (service of process), for sub-paragraphs (iii) and (iv) there shall be substituted—
“(iii) section 92 of and Schedule 11 to the Children Act 1989; or
(iv) section 93(2)(g) of that Act (including that provision as applied in relation to Northern Ireland by section 116(3) of the Courts and Legal Services Act 1990)”.
- 35 In section 16(2)(a) of that Act (application of Part II)—
(a) for sub-paragraph (iii) there shall be substituted—
“(iii) Schedule 1 to the Children Act 1989”; and
(b) in sub-paragraph (v), for the words “section 47 of the Child Care Act 1980” there shall be substituted “paragraph 23 of Schedule 2 to the Children Act 1989”.

The Social Work (Scotland) Act 1968 (c. 49)

- 36 In section 94(1) of the Social Work (Scotland) Act 1968 (interpretation), in the definition of “supervision order” for the words from first “has” to “1969” there shall be substituted “means a supervision order under the Children and Young Persons Act 1969 or the Children Act 1989”.

The Administration of Justice Act 1970 (c. 31)

- 37 (1) In Schedule 8 to the Administration of Justice Act 1970 (maintenance orders for purposes of Maintenance Orders Act 1958 and the 1970 Act), for paragraph 4 there shall be substituted—
“4 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989.”
- (2) Paragraph 12 of that Schedule shall cease to have effect.

The Attachment of Earnings Act 1971 (c. 32)

- 38 In Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which Act of 1971 applies) for paragraph 5 there shall be substituted—
“5 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989.”

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The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

- 39 (1) In section 28 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (complaint by spouse in convention country for recovery in England and Wales of maintenance from other spouse) for the words from “19(1)(i)” to “34” there shall be substituted “19(1) of that Act; and Part I of that Act, except sections 6 to 8, 16 to 18, 23(1), 24 to 27, 28(2) and 32(2)”.
- (2) In section 28A(3) of that Act (complaint of former spouse in convention country for recovery in England and Wales of maintenance from other spouse) for paragraph (e) there shall be substituted—
- “(e) sections 6 to 8, 16 to 18, 23(1), 24 to 28 and 32(2) shall be omitted.”
- (3) In section 30 of that Act (further provisions relating to recovery in England, Wales and Northern Ireland of maintenance for children) subsections (1), (2) and (6) shall cease to have effect.

The Magistrates' Courts Act 1980 (c. 43)

- 40 In section 65(1) of the Magistrates' Courts Act 1980 (meaning of family proceedings), paragraph (k) shall be omitted.

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

- 41 In section 18(6) of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) for paragraph (b) there shall be substituted—
- “(b) any order which is a Part I order for the purposes of the Family Law Act 1986.”

The Mental Health Act 1983 (c. 20)

- 42 In section 116(2) of the Mental Health Act 1983 (visiting of patients who are children) for paragraph (a) there shall be substituted—
- “(a) a child or young person—
- (i) who is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989, or
 - (ii) in respect of whom the rights and powers of a parent are vested in a local authority by virtue of section 16 of the Social Work (Scotland) Act 1968;”.