

Status: Point in time view as at 10/08/2021.

Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22). (See end of Document for details)

SCHEDULES

SCHEDULE 11

TRANSFER OF JURISDICTION TO FAMILY COURT

PART 1

AMENDMENTS OF ENACTMENTS

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

67 The Domestic Proceedings and Magistrates' Courts Act 1978 is amended as follows.

Commencement Information

II Sch. 11 para. 67 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)

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

Commencement Information

I2 Sch. 11 para. 68 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)

69 In section 6(1) (application for order for payments agreed between parties to a marriage) for “a magistrates' court” substitute “ the family court ”.

Commencement Information

I3 Sch. 11 para. 69 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)

70 In section 7(1) (powers of court where parties living apart by agreement) for “a magistrates' court” substitute “ the family court ”.

Commencement Information

I4 Sch. 11 para. 70 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)

71 (1) Section 19 (interim maintenance orders) is amended as follows.

(2) In subsection (1) (courts' powers)—

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- (a) in paragraph (a)—
 - (i) for “the magistrates' court” substitute “ the family court ”, and
 - (ii) omit the words from “or on refusing” to the end; and
 - (b) omit paragraphs (b) and (c) (High Court and county court powers).
- (3) In subsection (3) (date from which payment may be required to be made) omit the words after “section 2, 6 or 7 of this Act”.
- (4) In subsection (5)(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 ”.
- (5) In subsection (6) (interim order may be continued in force by order of court) for the words from “the magistrates' court which made the order” to “reheard,” substitute “the family court”.
- (6) Omit subsection (9) (interim order of High Court or county court on ordering rehearing by magistrates' court to be treated, for certain purposes, as an order of that magistrates' court).

Commencement Information

- I5** Sch. 11 para. 71 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)

- 72 In section 20 (variation, revival and revocation of orders for periodical payments) in each of subsections (1) to (3) and (5) for “a magistrates' court” substitute “ the family court ”.

Commencement Information

- I6** Sch. 11 para. 72 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)

- 73 (1) Section 20ZA (variation of orders for periodical payments: further provision) is amended as follows.
- (2) In subsections (1) and (7) (making provision as to payment when exercising power to vary) for “paragraphs (a) to (d) of section 59(3) of the Magistrates' Courts Act 1980” substitute “ section 1(4) and (4A) of the Maintenance Enforcement Act 1991 ”.
- (3) Omit subsections (2) to (5) and (9) (power of justices' clerk to vary order).
- (4) In subsection (6) (power to require account to be opened)—
- (a) for “Subsection (4) of section 59 of the Magistrates' Courts Act 1980” substitute “ Subsection (6) of section 1 of the Maintenance Enforcement Act 1991 ”, and
 - (b) for “subsections (1) and (5)” substitute “ subsection (1) ”.
- (5) Omit subsection (8) (duty to exercise powers in particular way).
- (6) In subsection (10) (powers under section only exercisable if payer resident in England and Wales)—
- (a) omit “, or of a justices' clerk,” and

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- (b) 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

I7 Sch. 11 para. 73 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)

- 74 In section 20A(1) (application by child for revival of periodical payments order)—
- (a) in the words before paragraph (a), for “a magistrates' court” substitute “ the family court ”, and
- (b) in the words after paragraph (b) omit “which made the order”.

Commencement Information

I8 Sch. 11 para. 74 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)

- 75 Omit section 22 (variation of instalments of lump sum).

Commencement Information

I9 Sch. 11 para. 75 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)

- 76 Omit section 23(2) (certain powers of a magistrates' court do not apply to orders under Part 1).

Commencement Information

I10 Sch. 11 para. 76 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)

- 77 In section 25(4) (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 ”.

Commencement Information

I11 Sch. 11 para. 77 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)

- 78 Section 27 (refusal of order in case more suitable for High Court) is repealed.

Commencement Information

I12 Sch. 11 para. 78 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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- 79 (1) Section 28 (powers of High Court and county court relation to certain orders under Part 1) is amended as follows.
- (2) In subsection (1) (power of High Court or county court in matrimonial proceedings to direct that order of magistrates' court is to cease to have effect)—
- (a) for “making by a magistrates' court” substitute “ making by the family court ”,
- (b) for “a county court” substitute “ the family court ”, and
- (c) for “made by a magistrates' court” substitute “ under this Part ”.
- (3) In subsection (3)—
- (a) for “a county court” substitute “ the family court ”,
- (b) for “a magistrates' court” substitute “ the family court ”.

Commencement Information

I13 Sch. 11 para. 79 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)

- 80 Section 29 (appeals) is repealed.

Commencement Information

I14 Sch. 11 para. 80 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)

- 81 (1) Section 30 (provisions as to jurisdiction and procedure) is amended as follows.
- (2) Omit subsections (1) and (1A) (limits on jurisdiction of magistrates' courts to deal with applications under Part 1).
- (3) In subsection (5) (jurisdiction of magistrates' court under Part 1 exercisable notwithstanding that a party to proceedings is not domiciled in England and Wales) for “a magistrates' court” substitute “ the family court ”.
- (4) Omit subsection (6) (interpretation of subsections (1) and (1A)).

Commencement Information

I15 Sch. 11 para. 81 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)

- 82 Section 31 (constitution of courts) is repealed.

Commencement Information

I16 Sch. 11 para. 82 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)

- 83 (1) Section 32 (enforcement etc of orders for payment of money) is amended as follows.
- (2) Omit subsection (1) (order under Part 1 to be enforced as a magistrates' court maintenance order).

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- (3) In subsection (2) (power to order payment to a person on another's behalf)—
 - (a) for the words from the beginning to “a magistrates' court making” substitute “ The family court when making ”, and
 - (b) omit the words after “to that other person”.
- (4) In subsection (4) (arrears more than 12 months old not to be enforced without court's permission) for “High Court or any county” substitute “ family ”.

Commencement Information

I17 Sch. 11 para. 83 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)

- 84
- (1) Section 35 (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage or formation of civil partnership) is amended as follows.
 - (2) In subsection (1) (circumstances in which court may exercise powers under subsection (2)) for “the court” substitute “ the family court ”.
 - (3) In subsection (2) (power to order repayment or partial repayment, or to dismiss application) for “The court” substitute “ The family court ”.
 - (4) In subsection (4) (application to be made in enforcement proceedings, or to county court)—
 - (a) for “shall be made to a county court, except that such an application may” substitute “ may (but need not) ”,
 - (b) omit “in the High Court or a county court”, and
 - (c) omit the words after “of this Act”.
 - (5) Omit subsection (6) (no limits on jurisdiction of county court under subsection (4)).
 - (6) In subsection (7) (liability of court officers)—
 - (a) in the words before paragraph (a)—
 - (i) for “The designated officer for a magistrates' court to whom any payments under an order made under section 2(1)(a), 6 or 7 of this Act are required to be made,” substitute “ An officer of the family court, ”, and
 - (ii) for “the first-mentioned order” substitute “ an order made under section 2(1)(a), 6 or 7 of this Act ”,
 - (b) in paragraph (a)—
 - (i) for “the designated officer,” substitute “ an officer of the family court, ”, and
 - (ii) for “in pursuance of the first mentioned order” substitute “ , in pursuance of an order made under section 2(1)(a), 6 or 7 of this Act requiring payments to be made to the court or an officer of the court, ”, and
 - (c) in the words after paragraph (b) for “first mentioned order”, in both places, substitute “ order made under section 2(1)(a), 6 or 7 of this Act ”.

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I18 Sch. 11 para. 84 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)

- 85 In section 88 (interpretation)—
- (a) in subsection (1) (defined terms), omit the definitions of “family proceedings” and “magistrates' court maintenance order”, and
 - (b) omit subsection (4) (powers of magistrates' courts acting in a local justice area).

Commencement Information

I19 Sch. 11 para. 85 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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