

Status: Point in time view as at 01/02/1991.

Changes to legislation: Domestic Proceedings and Magistrates' Courts Act 1978, SCHEDULE 2 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

^{X1}SCHEDULE 2 U.K.

Section 89.

MINOR AND CONSEQUENTIAL AMENDMENTS

Editorial Information

- X1** The text of Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

- 1 In section 5 of the Sheriff Courts (Scotland) Act 1907—
- [^{F1}(a) in subsection (2), after the words “Actions of aliment ”, there shall be inserted the words “(other than any action mentioned in sub-section (2A) below) ” ;]
- (b) the following subsection shall be inserted after subsection (2)—
- “(2A) Actions, arising out of an application under section 31(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, for the recovery of maintenance:” ; and
- (c) in the final proviso, for the words “the second sub-section ” there shall be substituted the words “sub-section (2) or (2A) ”.

Textual Amendments

- F1** Sch. 2 para. 1(a) repealed (S.) by Family Law (Scotland) Act 1985 (c. 37, SIF 49:3), ss. 28(2), 29(4), Sch. 2

The Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33)

- 2 In section 3(4) of the Maintenance Orders Act 1920 for the words “sitting and acting for the same place ” there shall be substituted the words “appointed for the same commission area (within the meaning of section 1 of the Administration of Justice Act 1973) ”.

3—5. ^{F2}

Textual Amendments

- F2** Sch. 2 paras. 3–5, 8 repealed by Child Care Act 1980 (c. 5), s. 89(3), Sch. 6

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The National Assistance Act 1948 (c. 29)

6 In section 43(4) of the National Assistance Act 1948 for the words “having jurisdiction in the place ” there shall be substituted the words “appointed for the commission area (within the meaning of section 1 of the Administration of Justice Act 1973) ”.

7 In section 44(2) of that Act for the words “having jurisdiction in the place ” there shall be substituted the words “appointed for the commission area (within the meaning of section 1 of the Administration of Justice Act 1973). ”

8 F3

Textual Amendments
F3 Sch. 2 paras. 3–5, 8 repealed by Child Care Act 1980 (c. 5), s. 89(3), Sch. 6

The Marriage Act 1949 (c. 76)

9 In section 3(5) of the Marriage Act 1949 for the words “having jurisdiction in the place ” there shall be substituted the words “appointed for the commission area (within the meaning of section 1 of the Administration of Justice Act 1973). ”

The Justices of the Peace Act 1949 (c. 101)

10 In section 13(4) of the Justices of the Peace Act 1949 after the words “juvenile ” there shall be inserted the words “or domestic ”.

The Maintenance Orders Act 1950 (c. 37.)

11 In section 3(2) of the Maintenance Orders Act 1950 for the words “having jurisdiction in the place ” there shall be substituted the words “appointed for the commission area (within the meaning of the Administration of Justice Act 1973) ”.

12 In section 15(1)(a) of that Act for sub-paragraph (ii) there shall be substituted the following sub-paragraph—
“(ii) section 24(1) and 30(3) of the Domestic Proceedings and Magistrates’ Courts Act 1978”.

13 In section 16(2)(a) of that Act, for sub-paragraph (ii) there shall be substituted the following sub-paragraph—
“(ii) Part 1 of the Domestic Proceedings and Magistrates’ Courts Act 1978.”

14 In section 22(1) of that Act after the words “person liable to make ”, in the first place where they occur, there shall be inserted the word “periodical ”.

15 F4

Textual Amendments
F4 Sch. 2 paras. 15, 21 repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(3), Sch. 9

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The Affiliation Proceedings Act 1957 (c. 55)

- 16 In section 9(2) of the Affiliation Proceedings Act 1957 for the words “£10 ” there shall be substituted the words “£50 ”.

The Adoption Act 1958 (7 & 8 Eliz. 2 c. 5)

- [^{F5}17 In section 32(2) of the Adoption Act 1958 for the words “subsection (2) ” there shall be substituted the words “subsection (1A) ”.]

Textual Amendments

F5 Sch. 2 paras. 17, 18 repealed (S.) by [Adoption \(Scotland\) Act 1978 \(c. 28, SIF 49:11\)](#), s. 66(3), [Sch. 4](#)

- [^{F6}18 In section 34A(3) of that Act—
- (a) for the words “the authority ”, in the first place where those words occur, there shall be substituted the words “a local authority ” ;
 - (b) after the words “the authority ”, in the second place where those words occur, there shall be inserted the words “in whose care the child is ” ;
 - (c) for the words “the court ” there shall be substituted the words “a court ”.]

Textual Amendments

F6 Sch. 2 paras. 17, 18 repealed (S.) by [Adoption \(Scotland\) Act 1978 \(c. 28, SIF 49:11\)](#), s. 66(3), [Sch. 4](#)

The County Courts Act 1959 (c. 22)

- 19 In section 109(2) of the County Courts Act 1959—
- (a) in paragraph (g) for the words “section 13A of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 ” there shall be substituted the words “section 35 of the Domestic Proceedings and Magistrates' Courts Act 1978 ” ;
 - (b) in paragraph (h) after the words “proceedings under ” there shall be inserted the words “section 34 or 34A of the Adoption Act 1958 ; ”
 - (c) in paragraph (i) for the words “section 29 ” there shall be substituted the words “section 27, 28, 29 ”.

- 20 ^{F7}

Textual Amendments

F7 Sch. 2 paras. 20, 24 repealed by [Child Care Act 1980 \(c. 5\)](#), s. 89(3), [Sch. 6](#)

- 21 ^{F8}

Textual Amendments

F8 Sch. 2 paras. 15, 21 repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154(3), [Sch. 9](#)

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The Health Services and Public Health Act 1968 (c. 46)

22 In section 64(3)(a) of the Health Services and Public Health Act 1968 for sub-paragraph (ix) there shall be substituted the following sub-paragraph—
“(ix) section 9 of the Domestic Proceedings and Magistrates’ Courts Act 1978”.

23 In section 65(3)(b) of that Act for sub-paragraph (x) there shall be substituted the following sub-paragraph—
“(x) section 9 of the Domestic Proceedings and Magistrates’ Courts Act 1978”.

24 F9

Textual Amendments
F9 Sch. 2 paras. 20, 24 repealed by Child Care Act 1980 (c. 5), s. 89(3), Sch. 6

25 F10

Textual Amendments
F10 Sch. 2 para. 25 repealed by Supreme Court Act 1981 (c. 54, SIF 37), Sch. 7

The Administration of Justice Act 1970 (c. 31)

26 In Schedule 8 of that Act in paragraph 3 for the words “or having effect as if made under the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 ” there shall be substituted the words “under Part I of the Domestic Proceedings and Magistrates’ Courts Act 1978 ”.

The Local Authority Social Services Act 1970 (c. 42)

27 In Schedule 1 of the Local Authority Social Services Act 1970, the entry relating to the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 shall be omitted and at the end of that Schedule there shall be inserted—

“The Domestic Proceedings and Magistrates’ Courts Act 1978. Section 9.	Supervision of child subject to court order in matrimonial proceedings.”
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The Matrimonial Proceedings and Property Act 1970 (c. 45)

28 In section 30(2) of the Matrimonial Proceedings and Property Act 1970 for the words “Subsections (4), (5) and (6) of section 7 of the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 ” there shall be substituted the words “Section 4(2) of the Domestic Proceedings and Magistrates’ Courts Act 1978 ”, for the words

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“section 2(1)(b) or (c) ” there shall be substituted the words “section 2(1)(a) ” and for the words “as they apply in relation to such an order as is referred to in the said subsection (4) ” there shall be substituted the words “as it applies in relation to an order made under section 2(1)(a) of the Domestic Proceedings and Magistrates' Courts Act 1978 ”.

The Guardianship of Minors Act 1971 (c. 3)

29 In section 13(2) of the Guardianship of Minors Act 1971 for the words “£10 ” there shall be substituted the words “£50 ”.

30 F11

Textual Amendments

F11 Sch. 2 para. 30 repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(4), Sch. 4

31 In section 16(5) of that Act after the words “magistrates' court under ” there shall be inserted the words “section 14A of this Act regarding access to a minor by a grandparent or under ”.

The Attachment of Earnings Act 1971 (c. 32)

32 In Schedule 1 to the Attachment of Earnings Act 1971 in paragraph 4 for the words “or having effect as if made under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 ” there shall be substituted the words “under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 ”.

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

33 In section 8(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 for the words “£10 ” there shall be substituted the words “£50 ”.

34 In section 27 of that Act—

- (a) in subsection (1) for the words “sections 28, 29 ” there shall be substituted the words “sections 28, 28A, 29, 29A ” ;
- (b) in subsection (9) for the words “section 13(2) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 ” there shall be substituted the words “section 32(2) of the Domestic Proceedings and Magistrates' Courts Act 1978 ”.

35 In section 35(1) of that Act for the words “section 28(6)(d) ” there shall be substituted the words “28, 28A(3)(e) ”.

36 In section 41 of that Act—

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(a) in subsection (1) for paragraphs (a) and (b) there shall be substituted the words “an affiliation order” ;

(b) for subsection (2) there shall be substituted the following subsections :—

“(2) The jurisdiction to revoke or vary an order for the periodical payment of money conferred on magistrates’ courts by sections 9, 10 or 11 of the Guardianship of Minors Act 1971 shall be exercisable notwithstanding that the proceedings for the revocation or variation of the order are brought by or against a person residing outside England and Wales.

(2A) Subject to subsection (2B) below, a magistrates’ court may, if it is satisfied that the respondent has been outside the United Kingdom during such period as may be prescribed by rules made under section 15 of the Justices of the Peace Act 1949, proceed on—

(a) an application made under section 53 of the Magistrates’ Courts Act 1952 for the revocation, revival or variation of an affiliation order, or

(b) an application made under section 9, 10, 11 or 12C(5) of the Guardianship of Minors Act 1971 for the revocation, revival or variation of an order for the periodical payment of money made under the said section 9, 10 or 11,

notwithstanding that the respondent has not been served with the summons ; and rules may prescribe any other matters as to which the court is to be satisfied before proceeding in such a case.

(2B) A magistrates’ court shall not—

(a) exercise its powers under section 53 of the Magistrates Courts Act 1952 so as to increase the amount of any periodical payments required to be made by any person under an affiliation order; or

(b) exercise its powers under section 9, 10 or 11 of the Guardianship of Minors Act 1971 so as to increase the amount of any periodical payments required to be made by any person by an order under one of those sections,

unless those powers are exercised at a hearing at which the person required to make the periodical payment appears or the requirements of section 47(3) of the Magistrates’ Courts Act 1952 with respect to proof of service of summons or appearance on a previous occasion are satisfied in respect of that person.”

37 In section 42(1) of that Act for the words “section 2(1)(b) or (c) of the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 (payment of weekly sums by husband or wife) ” there shall be substituted the words “section 2(1)(a) of the Domestic Proceedings and Magistrates’ Courts Act 1978 (making of periodical payments by husband or wife) ”.

The Matrimonial Causes Act 1973 (c. 18)

38 In section 4(1) of the Matrimonial Causes Act 1973 after the words “the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 ” there shall be inserted the words “or Part I of the Domestic Proceedings and Magistrates’ Courts Act 1978 ”.

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39 In section 47(2)(e) of that Act for the words “the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 ” there shall be substituted the words “Part I of the Domestic Proceedings and Magistrates’ Courts Act 1978 ”.

40 In section 50(2)(b) of that Act for the words “the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 ” there shall be substituted the words “Part I of the Domestic Proceedings and Magistrates’ Courts Act 1978 ”.

The Guardianship Act 1973 (c. 29)

41 In section 4(2) of the Guardianship Act 1973 there shall be added at the end the words “but the court shall not be required by virtue of this subsection to inform the local authority of their proposal to make such an order if an officer of the authority has already made to the court under section 6 of this Act a report which contains a recommendation that an order should be made under the said section 2(2)(b) ”.

42 In section 4(3) of that Act for the words “sections 12(2) and ” there shall be substituted the word “section ”.

43 In section 4(6) of that Act for the words “£10 ” there shall be substituted the words “£50 ”.

44 F12

Textual Amendments

F12 Sch. 2 para. 44 repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(4), Sch. 4 and expressed to be repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

45 F13

Textual Amendments

F13 Sch. 2 paras. 45, 52 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, Sch. 6

The Children Act 1975 (c. 72)

46 In section 36(6) of the Children Act 1975 there shall be added at the end the words “subject to the modification that the reference in section 4(2) of that Act to section 6 of that Act shall be construed as including a reference to subsection (4) of this section ”.

47 In section 43(2) of that Act for the words “£10 ” there shall be substituted the words “£50 ”.

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- 48 In section 46(3) of that Act—
 - (a) in paragraph (a) for the word “payments ” there shall be substituted the words “periodical payments or pay a lump sum ” ;
 - (b) in paragraph (b) after the words “to make ” there shall be inserted the word “periodical ”.

F14

49

Textual Amendments

F14 Sch. 2 para. 49 repealed by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 46(3), 48(2), Sch. 3 and expressed to be repealed (14.10.1991) by Children Act 1989 (c.41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), 27(4))

The Adoption Act 1976 (c. 36)

- 50 In section 28(3) of the Adoption Act 1976—
 - (a) in paragraph (b) for the words “the local authority ” there shall be substituted the words “a local authority ” ;
 - (b) after the words “the authority ” there shall be inserted the words “in whose care the child is ”.

51 In section 63(4) of that Act the words “to remove a child from a person’s custody under section 27 or 28 or ” shall be omitted.

52

F15

Textual Amendments

F15 Sch. 2 paras. 45, 52 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, Sch. 6

The Domestic Violence and Matrimonial Proceedings Act 1976 (c. 50)

- 53 In section 2 of the Domestic Violence and Matrimonial Proceedings Act 1976 at the end of subsection (4) there shall be inserted : —

“ In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday ”.

The Supplementary Benefits Act 1976 (c. 71)

54 In section 19(2) of the Supplementary Benefits Act 1976 for the words “acting for the petty sessions area ” there shall be substituted the words “appointed for the commission area (within the meaning of section 1 of the Administration of Justice Act 1973) ”

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