

*Status: Point in time view as at 04/04/2005.*

**Changes to legislation:** Children Act 1989, Cross Heading: The Matrimonial Causes Act 1973 (c. 18) 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

### SCHEDULE 12

#### MINOR AMENDMENTS

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

- 31 For section 41 of the Matrimonial Causes Act 1973 (restrictions on decrees for dissolution, annulment or separation affecting children) there shall be substituted—

**“41 Restrictions on decrees for dissolution, annulment or separation affecting children.**

- (1) In any proceedings for a decree of divorce or nullity of marriage, or a decree of judicial separation, the court shall consider—
- (a) whether there are any children of the family to whom this section applies; and
  - (b) where there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under the Children Act 1989 with respect to any of them.
- (2) Where, in any case to which this section applies, it appears to the court that—
- (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the Act of 1989 with respect to any such child;
  - (b) it is not in a position to exercise that power or (as the case may be) those powers without giving further consideration to the case; and
  - (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section,
- it may direct that the decree of divorce or nullity is not to be made absolute, or that the decree of judicial separation is not to be granted, until the court orders otherwise.
- (3) This section applies to—
- (a) any child of the family who has not reached the age of sixteen at the date when the court considers the case in accordance with the requirements of this section; and
  - (b) any child of the family who has reached that age at that date and in relation to whom the court directs that this section shall apply.”

#### Commencement Information

**11** Sch. 12 para. 31 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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- 32 In section 42 of that Act, subsection (3) (declaration by court that party to marriage unfit to have custody of children of family) shall cease to have effect.

**Commencement Information**

**I2** Sch. 12 para. 32 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

- 33 In section 52(1) of that Act (interpretation), in the definition of “child of the family”, for the words “has been boarded-out with those parties” there shall be substituted “ is placed with those parties as foster parents” ”.

**Commencement Information**

**I3** Sch. 12 para. 33 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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