

Status: Point in time view as at 13/10/2003. This version of this schedule contains provisions that are prospective.
Changes to legislation: Family Law Act 1996, SCHEDULE 9 is up to date with all changes known to be in force on or before 13 June 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 9

Section 66(2).

MODIFICATIONS, SAVING AND TRANSITIONAL

PROSPECTIVE

Transitional arrangements for those who have been living apart

F1₁

Textual Amendments

F1 Sch. 9 para. 1 repealed (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(f), 139(4)

Modifications of enactments etc.

PROSPECTIVE

F2₂

Textual Amendments

F2 Sch. 9 para. 2 repealed (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(f), 139(4)

- 3 If an Act or subordinate legislation—
- (a) refers to an enactment repealed or amended by or under this Act, and
 - (b) was passed or made before the repeal or amendment came into force,
- the Lord Chancellor may by order make such consequential modifications of any provision contained in the Act or subordinate legislation as appears to him necessary or expedient in respect of the reference.

Expressions used in paragraphs 2 and 3

- 4 In paragraphs 2 and 3—
- “decree” means a decree of divorce (whether a decree nisi or a decree which has been made absolute) or a decree of judicial separation;
 - “instrument” includes any deed, will or other instrument or document
 - “petition” means a petition for a decree of divorce or a petition for a decree of judicial separation; and

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“subordinate legislation” has the same meaning as in the ^{M1}Interpretation Act 1978.

Marginal Citations

M1 1978 c. 30.

PROSPECTIVE

Proceedings under way

- 5 (1) Except for paragraph 6 of this Schedule, nothing in any provision of Part II, Part I of Schedule 8 or Schedule 10—
- (a) applies to, or affects—
 - (i) any decree granted before the coming into force of the provision;
 - (ii) any proceedings begun, by petition or otherwise, before that time; or
 - (iii) any decree granted in any such proceedings;
 - (b) affects the operation of—
 - (i) the 1973 Act,
 - (ii) any other enactment, or
 - (iii) any subordinate legislation,
 in relation to any such proceedings or decree or to any proceedings in connection with any such proceedings or decree; or
 - (c) without prejudice to paragraph (b), affects any transitional provision having effect under Schedule 1 to the 1973 Act.
- (2) In this paragraph, “subordinate legislation” has the same meaning as in the ^{M2}Interpretation Act 1978.

Marginal Citations

M2 1978 c. 30.

- 6 (1) Section 31 of the 1973 Act has effect as amended by this Act in relation to any order under Part II of the 1973 Act made after the coming into force of the amendments.
- (2) Subsections (7) to (7F) of that section also have effect as amended by this Act in relation to any order made before the coming into force of the amendments.

Interpretation

- 7 In paragraphs 8 to 15 “the 1983 Act” means the ^{M3}Matrimonial Homes Act 1983.

Marginal Citations

M3 1983 c. 19.

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Pending applications for orders relating to occupation and molestation

- 8 (1) In this paragraph and paragraph 10 “the existing enactments” means—
- (a) the ^{M4}Domestic Violence and Matrimonial Proceedings Act 1976;
 - (b) sections 16 to 18 of the ^{M5}Domestic Proceedings and Magistrates’ Courts Act 1978; and
 - (c) sections 1 and 9 of the 1983 Act.
- (2) Nothing in Part IV, Part III of Schedule 8 or Schedule 10 affects any application for an order or injunction under any of the existing enactments which is pending immediately before the commencement of the repeal of that enactment.

Marginal Citations

M4 1976 c. 50.

M5 1978 c. 22.

Pending applications under Schedule 1 to the Matrimonial Homes Act 1983

- 9 Nothing in Part IV, Part III of Schedule 8 or Schedule 10 affects any application for an order under Schedule 1 to the 1983 Act which is pending immediately before the commencement of the repeal of that Schedule.

Existing orders relating to occupation and molestation

- 10 (1) In this paragraph “an existing order” means any order or injunction under any of the existing enactments which—
- (a) is in force immediately before the commencement of the repeal of that enactment; or
 - (b) was made or granted after that commencement in proceedings brought before that commencement.
- (2) Subject to sub-paragraphs (3) and (4), nothing in Part IV, Part III of Schedule 8 or Schedule 10—
- (a) prevents an existing order from remaining in force; or
 - (b) affects the enforcement of an existing order.
- (3) Nothing in Part IV, Part III of Schedule 8 or Schedule 10 affects any application to extend, vary or discharge an existing order, but the court may, if it thinks it just and reasonable to do so, treat the application as an application for an order under Part IV.
- (4) The making of an order under Part IV between parties with respect to whom an existing order is in force discharges the existing order.

Matrimonial home rights

- 11 (1) Any reference (however expressed) in any enactment, instrument or document (whether passed or made before or after the passing of this Act) to rights of occupation under, or within the meaning of, the 1983 Act shall be construed, so far as is required for continuing the effect of the instrument or document, as being or as the case requires including a reference to matrimonial home rights under, or within the meaning of, Part IV.

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- (2) Any reference (however expressed) in this Act or in any other enactment, instrument or document (including any enactment amended by Schedule 8) to matrimonial home rights under, or within the meaning of, Part IV shall be construed as including, in relation to times, circumstances and purposes before the commencement of sections 30 to 32, a reference to rights of occupation under, or within the meaning of, the 1983 Act.
- 12 (1) Any reference (however expressed) in any enactment, instrument or document (whether passed or made before or after the passing of this Act) to registration under section 2(8) of the 1983 Act shall, in relation to any time after the commencement of sections 30 to 32, be construed as being or as the case requires including a reference to registration under section 31(10).
- (2) Any reference (however expressed) in this Act or in any other enactment, instrument or document (including any enactment amended by Schedule 8) to registration under section 31(10) shall be construed as including a reference to—
- (a) registration under section 2(7) of the ^{M6}Matrimonial Homes Act 1967 or section 2(8) of the 1983 Act, and
 - (b) registration by caution duly lodged under section 2(7) of the Matrimonial Homes Act 1967 before 14th February 1983 (the date of the commencement of section 4(2) of the ^{M7}Matrimonial Homes and Property Act 1981).

Marginal Citations

M6 1967 c. 75.

M7 1981 c. 24.

- 13 In sections 30 and 31 and Schedule 4—
- (a) any reference to an order made under section 33 shall be construed as including a reference to an order made under section 1 of the 1983 Act, and
 - (b) any reference to an order made under section 33(5) shall be construed as including a reference to an order made under section 1 of the 1983 Act by virtue of section 2(4) of that Act.
- 14 Neither section 31(11) nor the repeal by the Matrimonial Homes and Property Act 1981 of the words “or caution” in section 2(7) of the Matrimonial Homes Act 1967, affects any caution duly lodged as respects any estate or interest before 14th February 1983.
- 15 Nothing in this Schedule is to be taken to prejudice the operation of sections 16 and 17 of the ^{M8}Interpretation Act 1978 (which relate to the effect of repeals).

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M8 1978 c. 30.

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