

SCHEDULES

SCHEDULE 1

Section 89.

TRANSITIONAL PROVISIONS

- 1 This Act (including the repeals and amendments made by it) shall not have effect in relation to any application made under any enactment repealed or amended by this Act if that application is pending at the time when the provision of this Act which repeals or amends that enactment comes into force.
- 2 Any order made or other thing done under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 which is in force: immediately before the coming into force of Part I of this Act shall not be affected by the repeal by this Act of that Act, and the provisions of that Act shall after the coming into force of the said Part I apply in relation to such an order, and to an order made under that Act by virtue of paragraph 1 above, subject to the following modifications—
 - (a) on a complaint for the revocation of the order the court shall not be bound under section 8 of that Act to revoke the order by reason of an act of adultery committed by the person on whose complaint the order was made ;
 - (b) on a complaint for the variation, revival or revocation of the order, the court, in exercising its powers under the said section 8 in relation to a provision of the order requiring the payment of money, shall have regard to any change in any of the matters to which the court would have been required to have regard when making that order if the order had been made on an application under section 2 of this Act;
 - (c) where the order contains a provision for the legal custody of a child, the court shall have power, on a complaint made by a grandparent of the child, to vary that order under the said section 8 by the addition to the order of a provision requiring access to the child to be given to that grandparent;
 - (d) where the court, by virtue of paragraph (c) above, varies the order by the addition of a provision requiring access to a child to be given to a grandparent, the court shall have power to vary or revoke that provision on a complaint made—
 - (i) by that grandparent, or
 - (ii) by either party to the marriage in question, or
 - (iii) where the child is not a child of both the parties to the marriage, by any person who though not a party to the marriage is a parent of the child, or
 - (iv) where under the order a child is for the time being committed to the legal custody of some person other than one of the parents or a party to the marriage, by the person to whose legal custody the child is committed by the order.
- 3 The amendment by this Act of any enactment shall not affect the operation of that enactment in relation to any order made or having effect as if made under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 (including an order made under that Act by virtue of paragraph 1 above) or in relation to any decision of a

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magistrates' court made on an application for such an order or for the variation, revival or revocation of such an order.

4 Any reference in paragraph 1 above to an application made under an enactment repealed by this Act shall be construed as including a reference to an application which is treated as a complaint under section 1 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 by virtue of section 27 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 and any reference in paragraph 2 or 3 above to an order made under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 shall be construed as including a reference to an order which is made under that Act by virtue of section 28 of the Maintenance Orders (Reciprocal Enforcement) Act 1972.

5 A provision contained in section 72 or in any of sections 79 to 82 of this Act shall not apply in relation to proceedings commenced before the coming into force of that provision.

6 The amendment by subsection (1) of section 78 of this Act of section 54(3) of the Magistrates' Courts Act 1952 shall not affect the punishment for disobeying an order of a magistrates' court if the default occurred before the date on which the said subsection (1) comes into force.

7 The amendment by subsection (3) of section 82 of this Act of section 58(2) of the Magistrates' Courts Act 1952 shall not affect the punishment for an offence under the said section 58 which is committed before the date on which the said subsection (3) comes into force, except that a person shall not be liable to imprisonment in respect of an offence for which proceedings are commenced after that date even if the offence was committed before that date.

8 A provision of Schedule 2 to this Act which relates to the punishment by way of fine which may be imposed for any offence shall not affect the punishment which may be imposed for an offence which is committed before the date on which that provision comes into force.

SCHEDULE 2

Section 89.

MINOR AND CONSEQUENTIAL AMENDMENTS

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

- 1 In section 5 of the Sheriff Courts (Scotland) Act 1907—
- (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) ".

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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) ".

The Children and Young Persons Act 1933 (c. 12)

- 3 In subsections (1) and (4) of section 87 of the Children and Young Persons Act 1933 for the words " having jurisdiction in the place" there shall be substituted the words " appointed for the commission area ".

- 4 In section 88 of that Act—

- (a) in subsections (1), (2) and (4) for the words "having jurisdiction in the place " there shall be substituted the words " appointed for the commission area ".
- (b) in subsection (2)(c) for the words " £10 " there shall be substituted the words " £50 ".

- 5 In section 107(1) of that Act after the definition of " child " there shall be inserted the following definition—

“' commission area' has the same meaning as in section 1 of the Administration of Justice Act 1973.”

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). "

The Children Act 1948 (c. 43)

- 8 In subsections (1) and (4) of section 26 of the Children Act 1948 for the words " having jurisdiction in " there shall be substituted the words " appointed for the commission area (within the meaning of section 1 of the Administration of Justice Act 1973) which includes. "

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 ".

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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 I 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 ".

The Magistrates' Courts Act 1952 (c. 55)

- 15 In section 52(2) of the Magistrates' Courts Act 1952 for the words "the Summary Jurisdiction (Separation and Maintenance) Acts 1895 to 1949" there shall be substituted the words " Part I of the Domestic Proceedings and Magistrates' Courts Act 1978. "

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)

- 17 In section 32(2) of the Adoption Act 1958 for the words " subsection (2)" there shall be substituted the words " subsection (1A) ".
- 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 ".

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 ".

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The Children and Young Persons Act 1963 (c. 51)

- 20 In sections 47 and 58 of the Children and Young Persons Act 1963 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".

Administration of Justice Act 1964 (c. 42)

- 21 In section 11(1) of the Administration of Justice Act 1964—
- (a) at the beginning there shall be inserted the words "notwithstanding anything in section 56A of the Magistrates' Courts Act 1952";
 - (b) at the end of paragraph (a) there shall be inserted the words "who are members of the domestic court panel for that area";
 - (c) at the end of paragraph (b) there shall be inserted the words "who are members of that panel".

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”.

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

- 24 In section 63(6)(g) of the Children and Young Persons Act 1969 for the words "section 2(1)(f) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960" there shall be substituted the words "section 9 of the Domestic Proceedings and Magistrates' Courts Act 1978".

The Administration of Justice Act 1970 (c. 31)

- 25 In Schedule 1 of the Administration of Justice Act 1970 for the words "section 11 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960" there shall be substituted the words "section 29 of the Domestic Proceedings and Magistrates' Courts Act 1978" and for the words "the Matrimonial Proceedings (Magistrates' Courts) Act 1960" in the second and third place where those words occur there shall be substituted the words "Part I of the Domestic Proceedings and Magistrates' Courts Act 1978".
- 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".

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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—

<p>“The Domestic Proceedings and Magistrates' Courts Act 1978. Section 9.</p>	<p>Supervision of child subject to court order in matrimonial proceedings.”</p>
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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 " 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 In section 14(3) of that Act for the words " and 10 " there shall be substituted the words " 10 and 14A(5) and (6) ".
- 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 ".

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- 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—
- (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) ".

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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 " .
- 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 In section 5(2) of that Act for the words " section 9(3) and (4)" there shall be substituted the words " section 9(4) " .

The Legal Aid Act 1974 (c. 4)

- 45 In Schedule 1 to the Legal Aid Act 1974 in paragraph 3—
- (a) sub-paragraph (a) shall be omitted ;
 - (b) in sub-paragraph (d) for the words " proceedings in which " there shall be substituted the words " proceedings in relation to an application for leave of the court to remove a child from a person's custody under section 34 or 34A of the Adoption Act 1958 or proceedings in which " ;
 - (c) the following sub-paragraph shall be inserted after subparagraph (g)—
 - “(h) proceedings for or in relation to an order under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978” .

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 " .
- 48 In section 46(3) of that Act—

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- (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 ".
- 49 In section 101(1) of that Act after the words " this Act" there shall be inserted the words " or under section 34 or 34A of the Adoption Act 1958 ".

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 In Schedule 3 to that Act in paragraph 18 after the words " paragraph 3(d)" there shall be inserted the words " for the words ' section 34 or 34A of the Adoption Act 1958' " there are substituted the words ' section 27 or 28 of the Adoption Act 1976' and ".

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) "

SCHEDULE 3

Section 89.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1948 c. 29.	The National Assistance Act 1948.	In section 43, subsection (7).
1950 c. 37.	The Maintenance Orders Act 1950.	In section 2, subsection (3).
1952 c. 55.	The Magistrates' Courts Act 1952.	In section 57, subsection (4).

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Chapter	Short Title	Extent of Repeal
		Section 59. In section 60, in subsection (1) the word "periodical" and the words "or in any proceedings in any matter of bastardy" and in subsection (2)(a) the words from " which shall be read aloud " to " at the hearing ". In section 61, the words "or in proceedings in any matter of bastardy."
		Section 62. In section 121, subsection (2).
1957 c. 55.	The Affiliation Proceedings Act 1957.	In section 7, subsections (1) to (3).
1960 c. 48.	The Matrimonial Proceedings (Magistrates' Courts) Act 1960.	The whole Act.
1961 c. 39.	The Criminal Justice Act 1961.	In Schedule 4, the entry relating to section 54 of the Magistrates' Courts Act 1952.
1964 c. 42.	The Administration of Justice Act 1964.	In section 2, subsection (3A). In Schedule 3, paragraph 27.
1965 c. 72.	The Matrimonial Causes Act 1965.	Section 42.
1967 c. 80.	The Criminal Justice Act 1967.	In Schedule 3, the entry relating to the Matrimonial Proceedings (Magistrates' Courts) Act
1968 c. 36.	The Maintenance Orders Act 1968.	In the Schedule, the entry relating to the Matrimonial Proceedings (Magistrates' Courts) Act 1960.
1969 c. 46.	The Family Law Reform Act 1969.	In section 5, subsection (2).
1969 c. 22 (N.I.).	The Adoption (Hague Convention) Act (Northern Ireland) 1969.	In section 7(2) the words " in respect of a foreign convention adoption".
1970 c. 42.	The Local Authority Social Services Act 1970.	In Schedule 1, the entry relating to the Matrimonial

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Chapter	Short Title	Extent of Repeal
		Proceedings (Magistrates' Courts) Act 1960.
1970 c. 45.	The Matrimonial Proceedings and Property Act 1970.	In section 30, subsection (1). Sections 31 to 33.
1971 c. 3.	The Guardianship of Minors Act 1971.	In section 9, subsection (3). In section 14, subsection (4).
1971 c. 38.	The Misuse of Drugs Act 1971.	Section 34.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	In section 17, subsections (1) to (3). In section 27, subsection (3). In the Schedule, paragraph 1.
1972 c. 49.	The Affiliation Proceedings (Amendment) Act 1972.	In section 3, subsections (1) and (2).
1972 c. 70.	The Local Government Act 1972.	In Schedule 23, paragraph 10.
1973 c. 18.	The Matrimonial Causes Act 1973.	In section 27, subsection (8).
1973 c. 29.	The Guardianship Act 1973.	In section 2, in subsection (5) the words from " but an interim order " to the end of the subsection. In section 3, in subsection (2) the words from " and where a supervision order" to the end of the subsection. Section 8. In Schedule 2, paragraph 1(2).
1974 c. 4.	The Legal Aid Act 1974.	In Schedule 1, paragraph 3(a).
1975 c. 72.	The Children Act 1975.	In section 17(1) the words " under the age of 16 ". In section 21, subsection (3). Section 91. In Schedule 3, paragraphs 12 and 26.
1976 c. 36.	The Adoption Act 1976.	In section 26(1) the words " under the age of 16 years ". In section 64, paragraph (c).

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Chapter	Short Title	Extent of Repeal
1976 c. 71.	The Supplementary Benefits Act 1976.	<p>In Schedule 1, in paragraph 6, the words " other than a Convention adoption order ".</p> <p>In Schedule 3, paragraph 4.</p> <p>In section 18(7) the words from " and any proceedings for such an order " to the end of the subsection.</p> <p>In Schedule 7, the entry relating to section 43(7) of the National Assistance Act 1948.</p>