



# Domestic Proceedings and Magistrates' Courts Act 1978

## 1978 CHAPTER 22

### PART I

#### MATRIMONIAL PROCEEDINGS IN MAGISTRATES' COURTS

##### *Provisions relating to High Court and county court*

#### **28 Powers of High Court and county court in relation to certain orders under Part I**

- (1) Where after the making by a magistrates' court of an order under this Part of this Act proceedings between, and relating to the marriage of, the parties to the proceedings in which that order was made have been commenced in the High Court or a county court, then, except in the case of an order for the payment of a lump sum, the court in which the proceedings or any application made therein are or is pending may, if it thinks fit, direct that the order made by a magistrates' court shall cease to have effect on such date as may be specified in the direction.
- (2) Where after the making by a magistrates' court of an order under subsection (3) of section 16 of this Act in relation to a matrimonial home, one of the parties to the marriage in question applies for an order to be made in relation to that matrimonial home under—
  - (a) section 1(2) of the Matrimonial Homes Act 1967 (which enables an application to be made for an order relating to rights of occupation under that Act or relating to the exercise by either spouse of a right to occupy a dwelling house), or
  - (b) section 4 of the Domestic Violence and Matrimonial Proceedings Act 1976 (which enables an application to be made for an order relating to the exercise of the right to occupy a dwelling house where both spouses have joint rights),the High Court or county court by which that application is heard may, if it thinks fit, direct that the order made under subsection (3) of section 16 of this Act, and any order

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*Status: This is the original version (as it was originally enacted).*

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made under subsection (4) of that section in relation to that matrimonial home, shall cease to have effect on such date as may be specified in the direction.

- (3) Nothing in this section shall be taken as prejudicing the effect of any order made by the High Court or a county court so far as it implicitly supersedes or revokes an order or part of an order made by a magistrates' court.