

## SCHEDULES

### SCHEDULE 11

Section 92.

#### JURISDICTION

#### PART I

#### GENERAL

##### *Commencement of proceedings*

- 1 (1) The Lord Chancellor may by order specify proceedings under this Act or the Adoption Act 1976 which may only be commenced in—
- (a) a specified level of court;
  - (b) a court which falls within a specified class of court; or
  - (c) a particular court determined in accordance with, or specified in, the order.
- (2) The Lord Chancellor may by order specify circumstances in which specified proceedings under this Act or the Adoption Act 1976 (which might otherwise be commenced elsewhere) may only be commenced in—
- (a) a specified level of court;
  - (b) a court which falls within a specified class of court; or
  - (c) a particular court determined in accordance with, or specified in, the order.
- (3) The Lord Chancellor may by order make provision by virtue of which, where specified proceedings with respect to a child under—
- (a) this Act;
  - (b) the Adoption Act 1976; or
  - (c) the High Court's inherent jurisdiction with respect to children,
- have been commenced in or transferred to any court (whether or not by virtue of an order under this Schedule), any other specified family proceedings which may affect, or are otherwise connected with, the child may, in specified circumstances, only be commenced in that court.
- (4) A class of court specified in an order under this Schedule may be described by reference to a description of proceedings and may include different levels of court.

##### *Transfer of proceedings*

- 2 (1) The Lord Chancellor may by order provide that in specified circumstances the whole, or any specified part of, specified proceedings to which this paragraph applies shall be transferred to—
- (a) a specified level of court;
  - (b) a court which falls within a specified class of court; or
  - (c) a particular court determined in accordance with, or specified in, the order.

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- (2) Any order under this paragraph may provide for the transfer to be made at any stage, or specified stage, of the proceedings and whether or not the proceedings, or any part of them, have already been transferred.
- (3) The proceedings to which this paragraph applies are—
  - (a) any proceedings under this Act;
  - (b) any proceedings under the Adoption Act 1976;
  - (c) any other proceedings which—
    - (i) are family proceedings for the purposes of this Act, other than proceedings under the inherent jurisdiction of the High Court; and
    - (ii) may affect, or are otherwise connected with, the child concerned.
- (4) Proceedings to which this paragraph applies by virtue of sub-paragraph (3)(c) may only be transferred in accordance with the provisions of an order made under this paragraph for the purpose of consolidating them with proceedings under—
  - (a) this Act;
  - (b) the Adoption Act 1976; or
  - (c) the High Court’s inherent jurisdiction with respect to children.
- (5) An order under this paragraph may make such provision as the Lord Chancellor thinks appropriate for excluding proceedings to which this paragraph applies from the operation of any enactment which would otherwise govern the transfer of those proceedings, or any part of them.

*Hearings by single justice*

- 3 (1) In such circumstances as the Lord Chancellor may by order specify—
  - (a) the jurisdiction of a magistrates' court to make an emergency protection order;
  - (b) any specified question with respect to the transfer of specified proceedings to or from a magistrates' court in accordance with the provisions of an order under paragraph 2,
 may be exercised by a single justice.
- (2) Any provision made under this paragraph shall be without prejudice to any other enactment or rule of law relating to the functions which may be performed by a single justice of the peace.

*General*

- 4 (1) For the purposes of this Schedule—
  - (a) the commencement of proceedings under this Act includes the making of any application under this Act in the course of proceedings (whether or not those proceedings are proceedings under this Act); and
  - (b) there are three levels of court, that is to say the High Court, any county court and any magistrates' court.
- (2) In this Schedule “specified” means specified by an order made under this Schedule.
- (3) Any order under paragraph 1 may make provision as to the effect of commencing proceedings in contravention of any of the provisions of the order.

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- (4) An order under paragraph 2 may make provision as to the effect of a failure to comply with any of the provisions of the order.
- (5) An order under this Schedule may—
- (a) make such consequential, incidental or transitional provision as the Lord Chancellor considers expedient, including provision amending any other enactment so far as it concerns the jurisdiction of any court or justice of the peace;
  - (b) make provision for treating proceedings which are—
    - (i) in part proceedings of a kind mentioned in paragraph (a) or (b) of paragraph 2(3); and
    - (ii) in part proceedings of a kind mentioned in paragraph (c) of paragraph 2(3),as consisting entirely of proceedings of one or other of those kinds, for the purposes of the application of any order made under paragraph 2.

## PART II

### CONSEQUENTIAL AMENDMENTS

#### *The Administration of Justice Act 1964 (c. 42)*

- 5 In section 38 of the Administration of Justice Act 1964 (interpretation), the definition of “domestic court”, which is spent, shall be omitted.

#### *The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)*

- 6 In the Domestic Proceedings and Magistrates' Courts Act 1978—
- (a) for the words “domestic proceedings”, wherever they occur in sections 16(5)(c) and 88(1), there shall be substituted “family proceedings”;
  - (b) for the words “domestic court panel”, wherever they occur in section 16(5)(b), there shall be substituted “family panel”.

#### *The Justices of the Peace Act 1979 (c. 55)*

- 7 In the Justices of the Peace Act 1979—
- (a) for the words “domestic proceedings”, wherever they occur in section 16(5), there shall be substituted “family proceedings”;
  - (b) for the words “domestic court”, wherever they occur in section 17(3), there shall be substituted “family proceedings court”;
  - (c) for the words “domestic courts”, wherever they occur in sections 38(2) and 58(1) and (5), there shall be substituted “family proceedings courts”.

#### *The Magistrates' Courts Act 1980 (c. 43)*

- 8 In the Magistrates' Courts Act 1980—
- (a) in section 65(1) (meaning of family proceedings), the following paragraph shall be inserted after paragraph (m)—
    - “(n) the Children Act 1989”;

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- (b) in section 65(2)(a) for the words “and (m)” there shall be substituted “(m) and (n)”;
- (c) for the words “domestic proceedings”, wherever they occur in sections 65(1), (2) and (3), 66(1) and (2), 67(1), (2) and (7), 69(1), (2), (3) and (4), 70(2) and (3), 71(1) and (2), 72(1), 73, 74(1), 121(8) and 150(1), there shall be substituted “family proceedings”;
- (d) for the words “domestic court panel”, wherever they occur in sections 66(2), 67(2), (4), (5), (7) and (8) and 68(1), (2) and (3), there shall be substituted “family panel”;
- (e) for the words “domestic court panels”, wherever they occur in section 67(3), (4), (5) and (6), there shall be substituted “family panels”;
- (f) for the words “domestic courts”, wherever they occur in sections 67(1) and (3) and 68(1), there shall be substituted “family proceedings courts”;
- (g) for the words “domestic court”, wherever they occur in section 67(2) and (5), there shall be substituted “family proceedings court”.

*The Supreme Court Act 1981 (c. 54)*

- 9 In paragraph 3 of Schedule 1 to the Supreme Court Act 1981 (distribution of business to the Family Division of the High Court), the following sub-paragraph shall be added at the end—
- “(e) proceedings under the Children Act 1989”.

*The Matrimonial and Family Proceedings Act 1984 (c. 42)*

- 10 In section 44 of the Matrimonial and Family Proceedings Act 1984 (domestic proceedings in magistrates' courts to include applications to alter maintenance agreements) for the words “domestic proceedings”, wherever they occur, there shall be substituted “family proceedings”.

*The Insolvency Act 1986 (c. 45)*

- 11 (1) In section 281(5)(b) of the Insolvency Act 1986 (discharge not to release bankrupt from bankruptcy debt arising under any order made in family proceedings or in domestic proceedings), the words “or in domestic proceedings” shall be omitted.
- (2) In section 281(8) of that Act (interpretation), for the definitions of “domestic proceedings” and “family proceedings” there shall be substituted—
- “family proceedings” means—
- (a) family proceedings within the meaning of the Magistrates' Courts Act 1980 and any proceedings which would be such proceedings but for section 65(1)(ii) of that Act (proceedings for variation of order for periodical payments); and
  - (b) family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.