

Status: Point in time view as at 01/10/1997.

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SCHEDULES

SCHEDULE 8

MINOR AND CONSEQUENTIAL AMENDMENTS

PART III

AMENDMENTS CONNECTED WITH PART IV

The Land Registration Act 1925 (c. 21)

- 45 In section 64 of the Land Registration Act 1925 (certificates to be produced and noted on dealings) in subsection (5) for “section 2(8) of the Matrimonial Homes Act 1983” substitute “section 31(10) of the Family Law Act 1996” and for “rights of occupation” substitute “matrimonial home rights”.

The Land Charges Act 1972 (c. 61)

- 46 In section 1(6A) of the Land Charges Act 1972 (cases where county court has jurisdiction to vacate registration) in paragraph (d)—
- (a) after “section 1 of the Matrimonial Homes Act 1983” insert “or section 33 of the Family Law Act 1996”; and
 - (b) for “that section” substitute “either of those sections”.
- 47 In section 2(7) of that Act (Class F land charge) for “Matrimonial Homes Act 1983” substitute “Part IV of the Family Law Act 1996”.

The Land Compensation Act 1973 (c. 26)

- 48 (1) Section 29A of the Land Compensation Act 1973 (spouses having statutory rights of occupation) is amended as follows.
- (2) In subsection (1), for “rights of occupation (within the meaning of the Matrimonial Homes Act 1983)” substitute “matrimonial home rights (within the meaning of Part IV of the Family Law Act 1996)”.
- (3) In subsection (2)(a), for “rights of occupation” substitute “matrimonial home rights”.

The Magistrates’ Courts Act 1980 (c. 43)

- 49 In section 65(1) of the Magistrates’ Courts Act 1980 (meaning of family proceedings) after paragraph (o) insert—

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“(p) Part IV of the Family Law Act 1996;”.

The Contempt of Court Act 1981 (c. 49)

50 In Schedule 3 to the Contempt of Court Act 1981 (application of Magistrates’ Courts Act 1980 to civil contempt proceedings), in paragraph 3 for the words from “ “or, having been arrested” onwards substitute—

“ “or, having been arrested under section 47 of the Family Law Act 1996 in connection with the matter of the complaint, is at large after being remanded under subsection (7)(b) or (10) of that section.””

The Supreme Court Act 1981 (c. 54)

51 In Schedule 1 to the Supreme Court Act 1981 (distribution of business in High Court), in paragraph 3 (Family Division)—

- (a) in paragraph (d), after “matrimonial proceedings” insert “ or proceedings under Part IV of the Family Law Act 1996 ”, and
- (b) in paragraph (f)(i), for “Domestic Violence and Matrimonial Proceedings Act 1976” substitute “ Part IV of the Family Law Act 1996 ”.

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

52 For section 22 of the Matrimonial and Family Proceedings Act 1984 substitute—

“22 Powers of court in relation to certain tenancies of dwelling-houses.

(1) This section applies if—

- (a) an application is made by a party to a marriage for an order for financial relief; and
- (b) one of the parties is entitled, either in his own right or jointly with the other party, to occupy a dwelling-house situated in England or Wales by virtue of a tenancy which is a relevant tenancy within the meaning of Schedule 7 to the Family Law Act 1996 (certain statutory tenancies).

(2) The court may make in relation to that dwelling-house any order which it could make under Part II of that Schedule if—

- (a) a divorce order,
- (b) a separation order, or
- (c) a decree of nullity of marriage,

had been made or granted in England and Wales in respect of the marriage.

(3) The provisions of paragraphs 10, 11 and 14(1) in Part III of that Schedule apply in relation to any order under this section as they apply to any order under Part II of that Schedule.”

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The Housing Act 1985 (c. 68)

- 53 (1) Section 85 of the Housing Act 1985 (extended discretion of court in certain proceedings for possession) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “matrimonial home rights under Part IV of the Family Law Act 1996”; and
 - (b) for “those rights of occupation” substitute “those matrimonial home rights”.
- (3) After subsection (5) insert—
- “(5A) If proceedings are brought for possession of a dwelling-house which is let under a secure tenancy and—
- (a) an order is in force under section 35 of the Family Law Act 1996 conferring rights on the former spouse of the tenant or an order is in force under section 36 of that Act conferring rights on a cohabitant or former cohabitant (within the meaning of that Act) of the tenant,
 - (b) the former spouse, cohabitant or former cohabitant is then in occupation of the dwelling-house, and
 - (c) the tenancy is terminated as a result of those proceedings,
- the former spouse, cohabitant or former cohabitant shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any adjournment, stay, suspension or postponement in pursuance of this section as he or she would have if the rights conferred by the order referred to in paragraph (a) were not affected by the termination of the tenancy.”
- 54 In section 99B of that Act (persons qualifying for compensation for improvements) in subsection (2) for paragraph (f) substitute—
- “(f) a spouse, former spouse, cohabitant or former cohabitant of the improving tenant to whom the tenancy has been transferred by an order made under Schedule 1 to the Matrimonial Homes Act 1983 or Schedule 7 to the Family Law Act 1996.”
- 55 In section 101 of that Act (rent not to be increased on account of tenant’s improvements) in subsection (3) for paragraph (d) substitute—
- “(d) a spouse, former spouse, cohabitant or former cohabitant of the tenant to whom the tenancy has been transferred by an order made under Schedule 1 to the Matrimonial Homes Act 1983 or Schedule 7 to the Family Law Act 1996.”
- 56 In section 171B of that Act (extent of preserved right to buy: qualifying persons and dwelling-houses) in subsection (4)(b)(ii) after “Schedule 1 to the Matrimonial Homes Act 1983” insert “or Schedule 7 to the Family Law Act 1996”.

The Insolvency Act 1986 (c. 45)

- 57 (1) Section 336 of the Insolvency Act 1986 (rights of occupation etc. of bankrupt’s spouse) is amended as follows.

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- (2) In subsection (1), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “matrimonial home rights under Part IV of the Family Law Act 1996”.
 - (3) In subsection (2)—
 - (a) for “rights of occupation under the Act of 1983” substitute “matrimonial home rights under the Act of 1996”, and
 - (b) in paragraph (b), for “under section 1 of that Act” substitute “under section 33 of that Act”.
 - (4) In subsection (4), for “section 1 of the Act of 1983” substitute “section 33 of the Act of 1996”.
- 58 (1) Section 337 of that Act is amended as follows.
- (2) In subsection (2), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “matrimonial home rights under Part IV of the Family Law Act 1996”.
 - (3) For subsection (3) substitute—
 - “(3) The Act of 1996 has effect, with the necessary modifications, as if—
 - (a) the rights conferred by paragraph (a) of subsection (2) were matrimonial home rights under that Act,
 - (b) any application for such leave as is mentioned in that paragraph were an application for an order under section 33 of that Act, and
 - (c) any charge under paragraph (b) of that subsection on the estate or interest of the trustee were a charge under that Act on the estate or interest of a spouse.”
 - (4) In subsections (4) and (5) for “section 1 of the Act of 1983” substitute “section 33 of the Act of 1996”.

The Housing Act 1988 (c. 50)

- 59 (1) Section 9 of the Housing Act 1988 (extended discretion of court in possession claims) is amended as follows.
- (2) In subsection (5)—
 - (a) in paragraph (a), for “rights of occupation under the Matrimonial Homes Act 1983” substitute “matrimonial home rights under Part IV of the Family Law Act 1996”, and
 - (b) for “those rights of occupation” substitute “those matrimonial home rights”.
 - (3) After subsection (5) insert—
 - “(5A) In any case where—
 - (a) at a time when proceedings are brought for possession of a dwelling-house let on an assured tenancy—
 - (i) an order is in force under section 35 of the Family Law Act 1996 conferring rights on the former spouse of the tenant, or
 - (ii) an order is in force under section 36 of that Act conferring rights on a cohabitant or former cohabitant (within the meaning of that Act) of the tenant,

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- (b) that cohabitant, former cohabitant or former spouse is then in occupation of the dwelling-house, and
- (c) the assured tenancy is terminated as a result of those proceedings, the cohabitant, former cohabitant or former spouse shall have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above as he or she would have if the rights conferred by the order referred to in paragraph (a) above were not affected by the termination of the tenancy.”

The Children Act 1989 (c. 41)

- 60 (1) In section 8(4) of the Children Act 1989 (meaning of “family proceedings” for purposes of that Act), omit paragraphs (c) and (f) and after paragraph (g) insert—
- “(h) the Family Law Act 1996.”
- (2) In Schedule 11 to that Act, in paragraph 6(a) (amendment of the ^{M1}Domestic Proceedings and Magistrates’ Courts Act 1978), for “sections 16(5)(c) and” substitute “section”.

Marginal Citations

M1 1978 c. 22.

The Courts and Legal Services Act 1990 (c. 41)

- 61 In section 58 of the Courts and Legal Services Act 1990 (conditional fee agreements) in subsection (10), omit paragraphs (b) and (e) and immediately before the “or” following paragraph (g) insert—
- “(gg) Part IV of the Family Law Act 1996”.

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