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STATUTORY INSTRUMENTS

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**1989 No. 382 (C.14)**

**FAMILY LAW**

The Family Law Reform Act 1987  
(Commencement No. 2) Order 1989

Made - - - - 8th March 1989

The Lord Chancellor, in exercise of the powers conferred on him by sections 34(2) and 34(3) of the Family Law Reform Act 1987<sup>(1)</sup>, hereby makes the following Order:

1. This Order may be cited as the Family Law Reform Act 1987 (Commencement No. 2) Order 1989.
2. The provisions of the Family Law Reform Act 1987 set out in the first column of Schedule 1 to this Order shall come into force on 1st April 1989.
3. The transitional provisions in Schedule 2 to this Order shall have effect.

Dated 8th March 1989

*Mackay of Clashfern, C.*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

(1) Provisions of the Act	
(2) Subject matter of provisions	
Section 2	Construction of enactments relating to parental rights and duties
Section 3	Agreements as to exercise of parental rights and duties
Section 4	Parental rights and duties of father
Section 5	Exercise of parental rights and duties
Section 6	Appointment of guardians
Section 7	Rights with respect to adoption
Section 8	Rights where child in care etc
Section 10	Orders for custody on application of either parent
Section 11	Orders for custody in guardianship cases
Section 12	Orders for financial relief on application of either parent
Section 13	Orders for financial relief in guardianship cases
Section 14	Orders for financial relief for persons over eighteen
Section 15	Alteration of maintenance agreements during lives of parties
Section 16	Alteration after death of one party
Section 17	Abolition of affiliation proceedings
Section 24	Registration of father where parents not married
Section 25	Re-registration where parents not married
Section 30	Orders applying section 1 to other enactments
Section 33, insofar as it relates to amendments, transitional provisions and repeals which are not already in force, with the exception of the amendments to the Family Law Reform Act 1969(2) set out in paragraphs 21 to 25 of Schedule 2 to the Act.	Amendments, transitional provisions, savings and repeals

## SCHEDULE 2

### TRANSITIONAL PROVISIONS

1. The Act (including the repeals and amendments made by it) shall not have effect in relation to the variation, discharge, revival or enforcement of—

- (a) orders made under the Guardianship of Minors Acts 1971 and 1973<sup>(3)</sup> before 1st April 1989; or
- (b) orders made under the said Acts by virtue of paragraph 1 of Schedule 3 to the Act.

2. Paragraph 62 of Schedule 2 to the Act shall not have effect in relation to the revival of orders made under section 34(1)(b) of the Children Act 1975<sup>(4)</sup> before 1st April 1989.

3. Paragraph 69 of Schedule 2 to the Act, and the repeals made by Schedule 4 to the Act in section 20 of the Domestic Proceedings and Magistrates' Courts Act 1978<sup>(5)</sup>, shall not have effect in relation to the revival of orders made under Part I of that Act before 1st April 1989.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 1st April 1989 all those provisions of the Family Law Reform Act 1987 which are not already in force, with the exception of sections 9, 23 and 32, and paragraphs 21 to 25 of Schedule 2.

The effect of the provisions being brought into force is as follows:

- (a) section 2 applies to the enactments listed in that section the principle laid down in section 1, namely that, unless the contrary intention appears, the relationship between two persons should be construed without regard to whether or not a person's parents were married to each other at any time;
- (b) section 3 provides that an agreement may be made between the parents of a child, whether or not they have at any time been married to each other, as to the exercise by either of them of parental rights and duties during a period when they are not living together;
- (c) section 4 enables a father who was not married to the mother at the time of their child's birth to apply to the court for an order that he is to share all the parental rights and duties with the mother;
- (d) section 5 enables parents who were not married at the time of their child's birth, in certain circumstances to apply for the directions of the court upon matters affecting the child's welfare;
- (e) sections 6, 7 and 8 make changes to the legal position of a father who was not married to the mother at the time of their child's birth, who has an order made under section 4 or a right to custody of the child, as regards guardianship, adoption, and with respect to his rights where the child is in care;

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<sup>(3)</sup> 1971 c. 3; 1973 c. 29.

<sup>(4)</sup> 1975 c. 72.

<sup>(5)</sup> 1978 c. 22.

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- (f) sections 10 and 11 re-enact with amendments certain provisions of the Guardianship of Minors Act 1971 to deal with applications for custody and access upon the application of either parent and in guardianship cases;
- (g) sections 12 to 17 abolish affiliation proceedings and provide for applications for financial provision for children to be made under the Guardianship of Minors Act 1971. Under these provisions, applications may be made to a magistrates' court, a county court or the High Court by either parent, whether or not they have been married to each other at any time;
- (h) sections 24 and 25 make changes to the requirements for registration of the father where the parents of a child are not married, and for re-registration where no person has previously been registered as the child's father;
- (i) section 30 enables the Lord Chancellor by statutory instrument to apply the rule of construction established by section 1 to such other enactments as may be specified;
- (j) section 33 deals with amendments, transitional provisions, savings and repeals.

This Order also brings into force the transitional provisions specified in Schedule 2. The effect of paragraph 1 is that orders made before 1st April 1989 under the Guardianship of Minors Act 1971 and the Guardianship Act 1973 can be varied, enforced, discharged and revived as if the amendments and repeals in the 1987 Act had not been made. Similar provision is made in paragraphs 2 and 3 in respect of the power to revive orders for periodical payments in respect of children made before 1st April 1989 under the Children Act 1975 and Part I of the Domestic Proceedings and Magistrates Courts Act 1978.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*This note is not part of the Order)*

The following provisions of the Act were brought into force on the 4th April 1988 by the Family Law Reform Act 1987 (Commencement No. 1) Order 1988 (S.I.1988/425):

Sections 1, 18, 19, 20, 21, 22, 26, 27, 28, 29, 31;

Section 33 (partially);

Section 34.