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STATUTORY INSTRUMENTS

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**1991 No. 1723**

**CHILDREN AND YOUNG PERSONS**

**The Family Law Act 1986 (Dependent Territories) Order 1991**

*Made* - - - - - *24th July 1991*  
*Laid before Parliament* *1st August 1991*  
*Coming into force* - - - *14th October 1991*

At the Court at Buckingham Palace, the 24th day of July 1991

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 43 of the Family Law Act 1986<sup>(1)</sup> is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Family Law Act 1986 (Dependent Territories) Order 1991 and shall come into force on 14th October 1991.

2. In this Order—

“the Act” means the Family Law Act 1986;

“specified dependent territory” means a dependent territory specified in column 1 of Schedule 1 to this Order;

“Part I order” has the meaning given by section 1(1) of the Act;

“part of the United Kingdom” has the meaning given by section 42(1) of the Act.

3.—(1) This Order applies in relation to a specified dependent territory from the date specified opposite the name of that territory in column 2 of Schedule 1 to this Order.

(2) Part I of the Act shall apply, for the purpose of regulating, as between any specified dependent territory and any part of the United Kingdom, the jurisdiction of courts to make Part I orders, and the recognition and enforcement of orders corresponding to such orders, with the modifications specified in Schedule 2 to this Order.

(3) Each Part of Schedule 3 to this Order shall have effect for the construction of Part I of the Act as modified by this Order in relation to the specified dependent territory named in the heading to that Part of that Schedule.

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(1) 1986 c. 55; Part I of the Act is amended by the Children Act 1989 (c. 41), Sch. 13, paras. 62—71 and Sch. 15.

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4. This Order does not extend to any territory outside the United Kingdom.

*G. I. de Deney*  
Clerk of the Privy Council

SCHEDULE 1

Article 2

SPECIFIED DEPENDENT TERRITORIES

Dependent Territory	Date from which this Order applies
The Isle of Man	14th October 1991

SCHEDULE 2

Article 3(2)

MODIFICATIONS OF PART I OF THE FAMILY LAW ACT 1986

**Chapter I — Preliminary**

- 1.—(1) In section 1(1) after paragraph (e) insert—
- “ (f) an order made by a court in a specified dependent territory corresponding to an order within paragraphs (a) to (e) above.”
- (2) In section 1(2)—
- (a) in paragraph (a), after “subsection (1)(c)” insert “or (f)”;
- (b) in paragraph (c), after “paragraph (e)” insert “or (f)”.
- (3) In section 1(3) after paragraph (b) insert— “and
- (c) excludes any order falling within subsection (1)(f) above made before the date specified opposite the name of the territory concerned in Column 2 of Schedule 1 to the Family Law Act 1986 (Dependent Territories) Order 1991, as from time to time in force.”

**Chapter II — Jurisdiction of courts in England and Wales**

- 2.—(1) In section 2A(2), for “Scotland or Northern Ireland” substitute “Scotland, Northern Ireland or a specified dependent territory”.
- (2) In section 2A(3)—
- (a) in paragraph (a), after “section 13(6)(a)(i), or” insert “a corresponding dependent territory order, or”;
- (b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order,”.
- 3.—(1) In section 3(1)(b), after “United Kingdom” insert “or a specified dependent territory”.
- (2) In section 3(2), for “Scotland or Northern Ireland” substitute “Scotland, Northern Ireland or a specified dependent territory”.
- (3) In section 3(3)—
- (a) in paragraph (a), after “section 13(6)(a)(i), or” insert “a corresponding dependent territory order, or”;
- (b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order,”.
- 4.—(1) In section 6(1), for “Scotland or Northern Ireland”—
- (a) (in the first place) substitute “Scotland, Northern Ireland or a specified dependent territory”; and
- (b) (in the second place) substitute “Scotland, Northern Ireland or the territory”.

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(2) In section 6(3), for “Scotland or Northern Ireland” substitute “Scotland, Northern Ireland or a specified dependent territory”.

(3) In section 6(4)—

(a) in paragraph (a), after “section 13(6)(a)(i), or” insert “a corresponding dependent territory order, or”;

(b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order.”.

### **Chapter III — Jurisdiction of courts in Scotland**

**5.** In section 10(a)(ii) and (b)(ii), after “United Kingdom” insert “or a specified dependent territory”.

**6.—(1)** In section 11(1), after “United Kingdom” insert “or a specified dependent territory”.

(2) In section 11(2)—

(a) in paragraph (a), after the words “section 13(6)(a)(ii)” insert “or a corresponding dependent territory order”;

(b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order.”.

**7.—(1)** In section 13(3) and (4), after “United Kingdom” insert “or a specified dependent territory”.

(2) In section 13(5)—

(a) in paragraph (a), after “paragraph (a)(ii) of that subsection), or” insert “a corresponding dependent territory order, or”;

(b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order.”.

(3) In section 13(6)(a)(ii)—

(a) after “this Act” insert “or a corresponding dependent territory provision”;

(b) after “United Kingdom” insert “or a specified dependent territory”.

**8.** In section 15(1)—

(a) in paragraph (a), after “United Kingdom” insert “or in a specified dependent territory”;

(b) in paragraph (b), after “United Kingdom” insert “and any specified dependent territory”;

(c) after “the other court in the United Kingdom” insert “or in the specified dependent territory”.

### **Chapter IV — Jurisdiction of courts in Northern Ireland**

**9.—(1)** In section 20(1)(b), after “United Kingdom” insert “or in a specified dependent territory”.

(2) In section 20(2), for “England and Wales or Scotland” substitute “England and Wales, Scotland or a specified dependent territory”.

(3) In section 20(3)—

(a) in paragraph (a), after “section 13(6)(a)(i), or” insert “a corresponding dependent territory order, or”;

(b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order.”.

**10.—(1)** In section 21(3), for “England and Wales or Scotland” substitute “England and Wales, Scotland or a specified dependent territory”.

(2) In section 21(4)—

(a) in paragraph (a), for “section 13(6)(a)(i), or” substitute “section 13 (6)(a)(i), or a corresponding dependent territory order, or”;

(b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order,”.

**11.**—(1) In section 23(1), for “England and Wales or Scotland”–

(a) (in the first place) substitute “England and Wales, Scotland or a specified dependent territory”; and

(b) (in the second place) substitute “England and Wales, Scotland or the territory”.

(2) In section 23(3), for “England and Wales or Scotland” substitute “England and Wales, Scotland or a specified dependent territory”.

(3) In section 23(4)–

(a) in paragraph (a), after “section 13(6)(a)(i), or” insert “a corresponding dependent territory order, or”;

(b) in paragraph (b), after “this Act” insert “, or a corresponding dependent territory order,”.

## **Chapter V — Recognition and Enforcement**

**12.** In section 25(1)–

(a) after the words “a court in any part of the United Kingdom” insert “or in a specified dependent territory”;

(b) after the words “shall be recognised in any other part” insert “or, in the case of a dependent territory order, any part”;

(c) for the words “in that other part”, in both places where they occur, substitute “in that part”.

**13.** In section 26, after “United Kingdom” insert “and a specified dependent territory”.

**14.**—(1) In section 27(1), after “under this section” insert “, or in a specified dependent territory under a corresponding provision”.

(2) In section 27(3), after “part of the United Kingdom” insert “or dependent territory”.

(3) In section 27(4)–

(a) after “the appropriate court” insert “in any part of the United Kingdom”; and

(b) after “subsection (3) above” insert “or under a corresponding dependent territory provision,”.

**15.** In section 28(2)–

(a) in paragraph (a), after “United Kingdom” insert “or in a specified dependent territory”; and

(b) in paragraph (b), after “United Kingdom” insert “and any specified dependent territory”.

**16.**—(1) In section 31(1), after “United Kingdom” insert “or specified dependent territory”.

(2) In section 31(2), after “outside the United Kingdom” insert “and any specified dependent territory”.

**17.**—(1) In section 32(1)–

(a) in the definition of “the appropriate court”, after “the Court of Session” insert “and, in relation to a specified dependent territory, means the corresponding court in that territory”;

(b) in the definition of “Part I order”, in paragraph (a), after “this Part” insert “or the corresponding dependent territory provisions”.

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(2) In section 32(3)(a), after “this Part” insert “or the corresponding dependent territory provisions, as the case may be,”.

## **Chapter VI — Miscellaneous and supplemental**

**18.** In section 33(3), after “United Kingdom” insert “and any specified dependent territory”.

**19.—**(1) In section 35(2), after “specified in the order,” insert “or out of any specified dependent territory specified in the order,”.

(2) In section 35(3), after “any part of the United Kingdom” insert “or any specified dependent territory”.

**20.—**(1) In section 36(1)—

- (a) after “in the United Kingdom” insert “or any specified dependent territory”; and
- (b) after “specified part of it” insert “or from any such territory”.

(2) In section 36(2)—

- (a) after “this section applies” insert “, made by a court in one part of the United Kingdom or in a specified dependent territory,”;
- (b) after “shall have effect in each” insert “other part, or, in the case of an order made in a dependent territory, each”;
- (c) the words “other than the part in which it was made” shall be omitted;
- (d) in paragraphs (a) and (b), the word “other” shall be omitted.

**21.** In section 37(1), after “part of it” insert “or from a specified dependent territory”.

**22.—**(1) In section 38(2)—

- (a) in paragraph (a), after “of which he is a ward), or” insert “in a specified dependent territory, or”;
- (b) in paragraph (b), after “United Kingdom” insert “or in a specified dependent territory”.

(2) In section 38(3)(a) and (b), after “United Kingdom” insert “or the specified dependent territory”.

**23.—**(1) In section 41(1)—

- (a) in paragraph (b) after “United Kingdom” insert “or in a specified dependent territory”;
- (b) after “that part of the United Kingdom”, in both places, insert “or that territory”.

(2) In section 41(2)—

- (a) after “the part of the United Kingdom” insert “or the territory”;
- (b) in paragraph (a), after “that part of the United Kingdom” insert “or that territory”;
- (c) in paragraph (b), after “the United Kingdom” insert “or in a specified dependent territory”.

(3) In section 41(3)—

- (a) after “a Part of the United Kingdom” insert “or a specified dependent territory”;
- (b) in paragraph (b)—
  - (i) after “outside that part of the United Kingdom” insert “or that territory”;
  - (ii) after “a court in any part of the United Kingdom” insert “or in any specified dependent territory”.

- 24.—(1) In section 42(1)—
- (a) after the definition of “certified copy” insert—  
““corresponding dependent territory order”, “corresponding dependent territory provision” and similar expressions, in relation to a specified dependent territory, shall be construed in accordance with Schedule 3 to the Family Law Act 1986 (Dependent Territories) Order 1991 as from time to time in force;  
“dependent territory” has the meaning given by section 43(2) of this Act;”;
  - (b) after the definition of “prescribed” insert—  
““specified dependent territory” means a dependent territory for the time being specified in Schedule 1 to the said Order of 1991.”.
- (2) In section 42(2), for “England and Wales or in Northern Ireland” substitute “England and Wales, Northern Ireland or a specified dependent territory”.
- (3) In section 42(4), after paragraph (c) insert—
- “(d) if the proceedings are in a specified dependent territory, means any child who has been treated by both parties as a child of their family, except a child who has been placed with those parties as foster parents by a public authority in that territory.”
- (4) In section 42(6), after paragraph (d) insert— “and
- (e) an order under a corresponding dependent territory provision.”
- (5) In section 42(7)(a), after “United Kingdom” insert “and any specified dependent territory”.

### SCHEDULE 3

Article 3(3)

#### INTERPRETATION OF CERTAIN EXPRESSIONS IN PART I OF THE FAMILY LAW ACT 1986 AS MODIFIED BY SCHEDULE 2 TO THIS ORDER

### PART I

#### The Isle of Man

1. In section 1(1)(f) “an order made by the court in a specified dependent territory corresponding to an order within paragraphs (a) to (e) above” means—
- (a) an order under section 9 of the Family Law Act 1991 (an Act of Tynwald) or any of the following enactments (being enactments repealed by that Act)—
    - (i) section 3(5) of the Guardianship of Infants Act 1953 (an Act of Tynwald), so far as it relates to the custody of infants;
    - (ii) section 4(1) of that Act, except so far as it relates to costs, but including that section as applied by section 3(1) of the Legitimacy Act 1962 (an Act of Tynwald);
    - (iii) section 42(1) or (2) of the Judicature (Matrimonial Causes) Act 1976 (an Act of Tynwald);
    - (iv) section 8(2) or 18(1)(ii) of the Domestic Proceedings Act 1983 (an Act of Tynwald);
    - (v) section 34(1) of that Act;
    - (vi) section 49(1) of that Act, so far as it relates to the custody of or access to a child;
  - (b) an order made by the High Court of Justice of the Isle of Man in the exercise of its jurisdiction relating to wardship or its inherent jurisdiction with respect to children—

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- (i) so far as it gives care of a child to any person or provides for contact with or access to, or the education of, a child but
  - (ii) excluding an order varying or revoking such an order, or an order relating to a child of whom care or control is (immediately after the making of the order) vested in a public authority in the Isle of Man.
2. In each of sections 2A(3), 3(3), 6(4), 11(2), 13(5), 20(3), 21(4) and 23(4)–
- (a) in paragraph (a) “corresponding dependent territory order” means an order under section 3(3) of the Child Custody Act 1987 (an Act of Tynwald);
  - (b) in paragraph (b) “corresponding dependent territory order” means an order under section 4(2) of that Act.
3. In section 13(6)(a)(ii), “corresponding dependent territory provision” means section 2(2) or 5(3) of the Child Custody Act 1987 (an Act of Tynwald).
- 4.—(1) In section 27(1) “corresponding provision” means section 7 of the Child Custody Act 1987 (an Act of Tynwald).
- (2) In section 27(4) “corresponding dependent territory provision” means section 12(3) of that Act.
- 5.—(1) In section 32(1) “the corresponding court” means the High Court of Justice of the Isle of Man.
- (2) In section 32(1) and (3)(a) “the corresponding dependent territory provisions” means Part I of the Child Custody Act 1987 (an Act of Tynwald).
6. In section 42(6)(e) “corresponding dependent territory provision” means–
- (a) section 42(6) or (7) of the Judicature (Matrimonial Causes) Act 1976 (an Act of Tynwald);
  - (b) section 18(6) of the Domestic Proceedings Act 1983 (an Act of Tynwald).

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## EXPLANATORY NOTE

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

Part I of the Family Law Act 1986 sets up a scheme of jurisdiction of courts in the United Kingdom to make orders with regard to the custody of children and provides for the recognition and enforcement of such orders throughout the United Kingdom. This Order modifies Part I so as to bring orders made by courts in dependent territories within the scheme and to provide for the recognition and enforcement of such orders in the United Kingdom.

The Order applies in the first instance to orders made by courts in the Isle of Man, whose legislation already contains reciprocal provision. If similar reciprocal provision is made in the laws of other dependent territories, the Order may be amended from time to time to apply to orders made by courts in such territories.

Schedule 1 to the order lists the territories (at present only the Isle of Man) in relation to which provision is made by the Order. Schedule 2 sets out the modifications of Part I of the Family Law Act 1986 which are made for the purpose of the Order. Schedule 3 provides for the interpretation, in



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relation to a specified dependent territory, of expressions used in the modified provisions; at present it consists only of a Part I, applying in relation to the Isle of Man, but further parts will be added if further territories are brought within the scheme.