STATUTORY INSTRUMENTS

1985 No. 779 (C.11)

CHILDREN AND YOUNG PERSONS MAGISTRATES' COURTS

The Children Act 1975 and the Domestic Proceedings and Magistrates' Courts Act 1978 (Commencement) Order 1985

Made - - - - 20*th May* 1985

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 108(2) of the Children Act 1975 (**a**) and section 89(3) of the Domestic Proceedings and Magistrates' Courts Act 1978 (**b**) and of all other powers enabling him in that behalf, hereby makes the following order:—

Citation, extent and interpretation

1.—(1) This order may be cited as the Children Act 1975 and the Domestic Proceedings and Magistrates' Courts Act 1978 (Commencement) Order 1985.

(2) This order shall not apply to Scotland.

(3) In this order—

"the Act" means the Children Act 1975;

"the 1978 Act" means the Domestic Proceedings and Magistrates' Courts Act 1978.

Day appointed for the coming into force of certain provisions of the Act and the 1978 Act

2.—(1) The provisions of the Act specified in the first column of Schedule 1 to this order and of the appendix to that Schedule (which relate to the matters specified in the second column thereof) shall come into operation on 1st December 1985.

(2) The provisions of the 1978 Act specified in the first column of Schedule 2 to this order and of the appendix to that Schedule (which relate to the matters specified in the second column thereof) shall come into operation on 1st December 1985.

Signed by authority of the Secretary of State for Social Services.

John Patten,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

20th May 1985.

(**a**) 1975 c.72. (**b**) 1978 c.22.

SCHEDULE 1 Article 2

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 1ST DECEMBER 1985

Provision of the Act	*Subject matter*
Section 33	Custodianship orders.
Section 34	Access and maintenance.
Section 35	Revocation and variation of orders.
Section 36	Care etc. of child on revocation of custodianship order.
Section 37 (a)	Custodianship order on application for adoption or guardianship.
Section 38	Dispute between joint custodians.
Section 39	Reports by local authorities and probation officers.
Section 40	Notice of application to be given to local authority.
Section 41 (b)	Restriction on removal of child where applicant has provided home for 3 years.
Section 42 (b)	Return of child taken away in breach of section 41.
Section 43	Enforcement of orders made by magistrates' courts.
Section 44	Effect of custodianship order on existing custody.
Section 45	Affiliation order on application by custodian.
Section 46	Procedure in magistrates' courts.
In Schedule 3, the provisions specified in the appendix to this Schedule	Minor and consequential amendments.
In Schedule 4, Part XII	Consequential repeals of words in sections 2 and 3 of the Guardianship Act 1973 (c.29).

(a) Section 37 was amended by paragraph 23 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41).
(b) Sections 41(1) and (2) and 42(1) and (2) were amended by paragraph 60 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983.

APPENDIX TO SCHEDULE 1

AMENDMENTS COMING INTO FORCE ON 1ST DECEMBER 1985

Provision in Schedule 3 to the Act	*Enactment amended*
Paragraph 7	Section 3(1) of the Marriage Act 1949 (c.76).
Paragraph 10	Section 15 of the Maintenance Orders Act 1950 (c.37).
Paragraph 11	Section 16(2)*(a)* of the Maintenance Orders Act 1950.
Paragraph 14	Section 5(2) of the Affiliation Proceedings Act 1957 (c.55).
Paragraph 73(2)	Schedule 8 to the Administration of Justice Act 1970 (c.31).
Paragraph 74*(b)* only insofar as it inserts the entry relating to Part II of the Act into Schedule 1 to the Local Authority Social Services Act 1970 (c.42)	Schedule 1 to the Local Authority Social Services Act 1970.
Paragraph 75(1)*(a)*, *(b)* and *(c)*, and *(d)* only insofar as it inserts a new sub-section (5) in section 9 of the Guardianship of Minors Act 1971 (c.3)	Section 9 of the Guardianship of Minors Act 1971.
Paragraph 76	Schedule 1 to the Attachment of Earnings Act 1971 (c.32).
Paragraph 79	Section 50(1) of the Matrimonial Causes Act 1973 (c.18).
Paragraph 82*(b)* only insofar as it inserts a new sub-paragraph *(f)* in paragraph 3 of Schedule 1 to the Legal Aid Act 1974 (c.4)	Schedule 1 to the Legal Aid Act 1974.

SCHEDULE 2 Article 2

PROVISIONS OF THE 1978 ACT COMING INTO FORCE ON 1ST DECEMBER 1985

Provision of the 1978 Act	*Subject matter*
Section 64	Substitution of a new section 34 for section 34 of the Act (extention of powers of court to make orders for maintenance and access).
Section 65	Insertion of new sections 34A and 34B in the Act (further provision as to maintenance of child subject to custodianship order).
Section 66	Amendment of section 35 of the Act (revocation and variation of orders for periodical payments).
Section 67	Insertion of new section 35A in the Act (provisions relating to lump sums).
Section 68	Amendment of section 36 of the Act (care of child on revocation of custodianship order).
Section 69	Insertion in section 37 of the Act of new subsection (4A) (custodianship order made on application for adoption or under Part I of the 1978 Act or under the guardianship of Minors Act 1971 (c.3)).
Section 70	Insertion of new section 43A in the Act(a) (restriction on removal of child from England and Wales).
Section 71	Insertion in section 101 of the Act of new subsection (4) (orders made on appeal from magistrates' court).
In Schedule 2 the provisions specified in the appendix to this schedule	Minor and consequential amendments to the Act.

APPENDIX TO SCHEDULE 2

AMENDMENTS COMING INTO FORCE ON 1ST DECEMBER 1985

Provision in Schedule 2 to the 1978 Act	*Enactment amended*
Paragraph 46	Section 36(6) of the Act.
Paragraph 47	Section 43(2) of the Act(b) .
Paragraph 48	Section 46(3) of the Act.

(a) Section 43A was amended by paragraph 24 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41).
(b) *See* section 46(1) of the Criminal Justice Act 1982 (c.48) and S.I. 1984/447. The level on the standard scale in section 43(2) of the Act is level 2.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order brings into force on 1st December 1985 the provisions of the Children Act 1975 and the Domestic Proceedings and Magistrates' Courts Act 1978 specified in Schedule 1 and 2 respectively and the appendices to those Schedules which make provision for custodianship orders to be made by a court. Such orders vest the legal custody of a child in a person who is not the mother or father of that child. The Order does not extend to Scotland.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This Note is not part of the Order.)

The following provisions of the Children Act 1975 have been brought into force by commencement orders (**a**) made before the date of this order.

Sections 4 to 12

Section 14 (partially)

Sections 15 and 16

Section 17 (partially)

Sections 18 and 19

Sections 20, 21 and 22 (partially)

Sections 23 to 25

Section 26

Section 28 (partially)

Sections 29 to 32

Sections 56 and 57

Sections 58 and 60 to 65

Sections 67 to 69

Sections 92 and 93

Section 101

Section 102 (partially)

This order brings the remaining provisions of the Domestic Proceedings and Magistrates' Courts Act 1978 into force, earlier commencement orders (**b**) being made before the date of this Order.

(**a**) S.I. 1976/1744, 1977/1036, 1978/1433, 1980/1475, 1981/1792, 1983/86 and 1946.
(**b**) S.I. 1978/997 and 1489, 1979/731, 1980/1478.

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