Family Law (Scotland) Act 2006

2006 asp 2

Private international law

39 Matrimonial property

(1) Any question in relation to the rights of spouses to each other's immoveable property arising by virtue of the marriage shall be determined by the law of the place in which the property is situated.

(2) Subject to subsections (4) and (5), if spouses are domiciled in the same country, any question in relation to the rights of the spouses to each other's moveable property arising by virtue of the marriage shall be determined by the law of that country.

(3) Subject to subsections (4) and (5), if spouses are domiciled in different countries then, for the purposes of any question in relation to the rights of the spouses to each other's moveable property arising by virtue of the marriage, the spouses shall be taken to have the same rights to such property as they had immediately before the marriage.

(4) Any question in relation to—

(a) the use or occupation of a matrimonial home which is moveable; or

(b) the use of the contents of a matrimonial home (whether the home is moveable or immoveable),

shall be determined by the law of the country in which the home is situated.

(5) A change of domicile by a spouse (or both spouses) shall not affect a right in moveable property which, immediately before the change, has vested in either spouse.

(6) This section shall not apply—

(a) in relation to the law on aliment, financial provision on divorce, transfer of property on divorce or succession;

(b) to the extent that spouses agree otherwise.

(7) In this section, "matrimonial home" has the same meaning as in section 22 of the 1981 Act.