

SCHEDULES

SCHEDULE 1

TRANSFER OF CERTAIN TENANCIES ON DIVORCE, ETC.

PART III

Ancillary jurisdiction

5.—(1) Where the court makes an order under Part II, it may by order direct that both spouses shall be jointly and severally liable to discharge or perform any or all of the liabilities and obligations in respect of the dwelling-house (whether arising under the tenancy or otherwise) which have at the date of the order fallen due to be discharged or performed by one only of the spouses or which, but for the direction, would before the date specified as the date on which the order is to take effect fall due to be discharged or performed by one only of them.

(2) Where the court gives a direction under sub-paragraph (1) it may further direct that either spouse shall be liable to indemnify the other in whole or in part against any payment made or expenses incurred by the other in discharging or performing any such liability or obligation.

Date when order is to take effect

6. In the case of a decree or divorce or nullity of marriage, the date specified in an order under Part II as the date on which the order is to take effect shall not be earlier than the date on which the decree is made absolute.

Remarriage of either spouse

7. If after the grant of a decree dissolving or annulling a marriage either spouse remarries, that spouse shall not be entitled to apply, by reference to the grant of that decree, for an order under Part II.

Rules of court

8.—(1) Rules of court shall be made requiring the court before it makes an order under this Schedule to give the landlord of the dwelling-house to which the order will relate an opportunity of being heard.

(2) Rules of court may provide that an application for an order under this Schedule in the circumstances mentioned in paragraph 1 shall not, without the leave of the court by which the decree of divorce, nullity of marriage or judicial separation was granted, be made after the expiration of such period from the grant of the decree as may be prescribed by the rules.

Status: This is the original version (as it was originally made).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

*Savings for Articles 3 and 4 of Family Law
(Miscellaneous Provisions)(Northern Ireland) Order 1984*

9. Where a spouse is entitled to occupy a dwelling-house by virtue of a tenancy, this Schedule shall not affect the operation of Articles 3 and 4 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984(1) in relation to the other spouse’s rights of occupation, and the court’s power to make orders under this Schedule shall be in addition to the powers conferred by those Articles.

Appeals from divorce county courts

10. Without prejudice to Article 61 of the County Courts (Northern Ireland) Order 1980(2) (cases stated), rules of court shall make provision for an appeal to the Court of Appeal from any order made by a divorce county court in the exercise of the jurisdiction conferred by this Schedule, or from the dismissal of any application for such an order, upon a point of law, a question of fact or the admission or rejection of any evidence.

Interpretation

11.—(1) In this Schedule the following words and expressions have the same meaning as in the Rent (Northern Ireland) Order 1978(3), namely—

- (a) dwelling-house;
- (b) the landlord;
- (c) protected tenancy;
- (d) Rent Restriction Acts;
- (e) statutory tenancy.

(2) In this Schedule—

“divorce county court” has the meaning assigned to it by the principal Order;

“secure tenancy” has the meaning assigned to it by Article 25 of the Housing (Northern Ireland) Order 1983(4).

(3) In this Schedule “spouse” includes a party to a void or voidable marriage and the reference in paragraph 7 to remarriage includes a reference to a marriage which is by law void or voidable.

(4) References in this Schedule to a spouse being entitled to occupy a dwelling-house by virtue of a protected, statutory or secure tenancy apply whether that entitlement is in his or her own right, or jointly with the other spouse.

(1) 1984 NI 14
(2) 1980 NI 3
(3) 1978 NI 20
(4) 1983 NI 15