

SCHEDULES

SCHEDULE 1

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

MISCELLANEOUS AND GENERAL

Transitional provisions derived from the Act of 1965

- 8 Any agreement between the petitioner and the respondent to live separate and apart, whether or not made in writing, shall be disregarded for the purposes of section 1(2) (c) above (including that paragraph as it applies, by virtue of section 17 above, to proceedings for judicial separation) if the agreement was entered into before 1st January 1938 and either—
- (a) at the time when the agreement was made the respondent had deserted the petitioner without cause ; or
 - (b) the court is satisfied that the circumstances in which the agreement was made and the parties proceeded to live separate and apart were such as, but for the agreement, to amount to desertion of the petitioner by the respondent.
- 9 Where the party chargeable under a maintenance agreement within the meaning of section 34 above died before 17th August 1957, then—
- (a) subsection (1) of that section shall not apply to the agreement unless there remained undistributed on that date assets of that party's estate (apart from any property in which he had only a life interest) representing not less than four-fifths of the value of that estate for probate after providing for the discharge of the funeral, testamentary and administrative expenses, debts and liabilities payable thereout (other than any liability arising by virtue of that subsection); and
 - (b) nothing in that subsection shall render liable to recovery, or impose any liability upon the personal representatives of that party in respect of, any part of that party's estate which had been distributed before that date.
- 10 No right or liability shall attach by virtue of section 34(1) above in respect of any sum payable under a maintenance agreement within the meaning of that section in respect of a period before 17th August 1957.