Status: *This is the original version (as it was originally enacted).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

SCHEDULES

SCHEDULE 1

TRANSITIONAL PROVISIONS AND SAVINGS

Variation, etc. of certain orders made, etc. under the Act of 1965

3 (1) Subject to the provisions of this paragraph, section 9 of this Act shall apply to an order (other than an order for the payment of a lump sum) made or deemed to have been made under any of the following provisions of the Act of 1965, that is to say—

(a) section 15, except in its application to proceedings for restitution of conjugal rights,

(b) section 16(1), that subsection as applied by section 16(3) and by section 19,

(c) section 20(1) and section 17(2) as applied by section 20(2),

(d) section 22,

(e) section 34(1)(a) or (b), in so far as it relates to the maintenance of a child, and section 34(3),

as it applies to the orders mentioned in subsection (2) of the said section 9.

(2) Subject to the provisions of this paragraph, the court hearing an application for the variation of an order made or deemed to have been made under any of the provisions of the Act of 1965 mentioned in sub-paragraph (1) above shall have power to vary that order in any way in which it would have power to vary it had the order been made under the corresponding provision of Part I of this Act.

(3) The said section 9, as applied by sub-paragraph (1) above, shall have effect as if for subsections (4), (5) and (6) thereof there were substituted the following subsections—

"(4) The court shall not exercise the powers conferred by this section in relation to an order made or deemed to have been made under section 17(2) of the Act of 1965, as applied by section 20(2) thereof, in proceedings for judicial separation except on an application made in proceedings—

(a) for the rescission of the decree of judicial separation, or

(b) for the dissolution of the marriage of the parties to the proceedings in which that decree was made.

(5) The court hearing an application for the variation of any order made or deemed to have been made under section 16(1), 20(1), 22, 34(1)(a) or (b) or 34(3) of the Act of 1965 or under the said section 16(1) as applied by section 16(3) of that Act or by section 19 thereof shall not have power to vary that order by making an order for the payment of a lump sum or any such order as is mentioned in section 4 of this Act.

(6) Where the person liable to make payments under a secured periodical payments order made or deemed to have been made under the said section 16(1), 22 or 34(3) or under the said section 16(1), as applied by the

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

said section 16(3) or by the said section 19, has died, an application under this section relating to that order may be made by the person entitled to payments under the order or by the personal representatives of the deceased person, but no such application shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that person is first taken out.

In this subsection ' secured periodical payments order' means an order requiring a person to secure an annual sum or periodical payments to some other person."

(4) In relation to an order made before 16th December 1949 which, by virtue of paragraph 1 of Schedule 1 to the Act of 1965, is deemed to have been made under section 16(1)(a) of that Act or the said paragraph (a) as applied by section 19 of that Act, the powers conferred by this paragraph shall not be exercised unless the court is satisfied that the case is one of exceptional hardship which cannot be met by discharge, variation or suspension of any order made, or deemed as aforesaid to have been made, under section 16(1)(b) of that Act or that paragraph, as so applied, as the case may be.

(5) Section 9(1) and (3) of this Act shall apply to an order made or deemed to have been made under section 15 of the Act of 1965 in its application to proceedings for restitution of conjugal rights, under section 21 of that Act or under section 34(1)(c) thereof as they apply to the orders mentioned in subsection (2) of the said section 9, and in exercising the powers conferred by virtue of this paragraph the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order to which the application relates.