

SCHEDULES

SCHEDULE 6

FINANCIAL RELIEF IN MAGISTRATES' COURTS ETC.

PART 3

ORDERS OF COURT WHERE CIVIL PARTNERS LIVING APART BY AGREEMENT

Powers of court where civil partners are living apart by agreement

- 15 (1) If—
- (a) the civil partners have been living apart for a continuous period exceeding 3 months, neither civil partner having deserted the other, and
 - (b) one of the civil partners has been making periodical payments for the benefit of the other civil partner or of a child of the family,
- the other civil partner may apply to a magistrates' court for an order under this Part.
- (2) An application made under sub-paragraph (1) must specify the total amount of the payments made by the respondent during the period of 3 months immediately preceding the date of the making of the application.
- (3) If on an application for an order under this Part the court is satisfied that the respondent has made the payments specified in the application, the court may make one or both of the orders set out in paragraph 16.
- (4) Sub-paragraph (3) is subject to the provisions of this Schedule.

The orders that may be made under this Part

- 16 (1) The orders are—
- (a) an order that the respondent is to make to the applicant such periodical payments for such term as may be specified;
 - (b) an order that the respondent is to make—
 - (i) to the applicant for the benefit of a child of the family to whom the application relates, or
 - (ii) to a child of the family to whom the application relates.such periodical payments for such term as may be specified.
- (2) “Specified” means specified in the order.

Restrictions on orders under this Part

- 17 The court in the exercise of its powers under this Part must not require—

Status: This is the original version (as it was originally enacted).

- (a) the respondent to make payments whose total amount during any period of 3 months exceeds the total amount paid by him for the benefit of—
 - (i) the applicant, or
 - (ii) a child of the family,during the period of 3 months immediately preceding the date of the making of the application;
- (b) the respondent to make payments to or for the benefit of any person which exceed in amount the payments which the court considers that it would have required the respondent to make to or for the benefit of that person on an application under Part 1;
- (c) payments to be made to or for the benefit of a child of the family who is not the respondent's child, unless the court considers that it would have made an order in favour of that child on an application under Part 1.

Relationship with powers under Part 1

- 18 (1) Sub-paragraph (2) applies if on an application under this Part the court considers that the orders which it has the power to make under this Part—
- (a) would not provide reasonable maintenance for the applicant, or
 - (b) if the application relates to a child of the family, would not provide, or make a proper contribution towards, reasonable maintenance for that child.
- (2) The court—
- (a) must refuse to make an order under this Part, but
 - (b) may treat the application as if it were an application for an order under Part 1.

Matters to be taken into consideration

- 19 Paragraphs 4 to 6 apply in relation to an application for an order under this Part as they apply in relation to an application for an order under Part 1, subject to the modification that for the reference in paragraph 5(2)(c) to the occurrence of the conduct which is alleged as the ground of the application substitute a reference to the living apart of the civil partners.