

## SCHEDULES

### SCHEDULE 2

#### TRANSFER OF CERTAIN TENANCIES ON DIVORCE ETC. OR ON SEPARATION OF COHABITEES

### PART III

#### SUPPLEMENTARY PROVISIONS

##### *Compensation*

9.—(1) If the court makes a Part II order, it may by the order direct the making of a payment by the spouse or cohabitee to whom the tenancy is transferred (“the transferee”) to the other spouse or cohabitee (“the transferor”).

(2) Without prejudice to that, the court may, on making an order by virtue of sub-paragraph (1) for the payment of a sum—

- (a) direct that payment of that sum or any part of it is to be deferred until a specified date or until the occurrence of a specified event, or
- (b) direct that that sum or any part of it is to be paid by instalments.

(3) Where an order has been made by virtue of sub-paragraph (1), the court may, on the application of the transferee or the transferor—

- (a) exercise its powers under sub-paragraph (2), or
- (b) vary any direction previously given under that sub-paragraph,

at anytime before the sum whose payment is required by the order is paid in full.

(4) In deciding whether to exercise its powers under this paragraph and, if so, in what manner, the court shall have regard to all the circumstances including—

- (a) the financial loss that would otherwise be suffered by the transferor as a result of the order,
- (b) the financial needs and financial resources of the parties, and
- (c) the financial obligations which the parties have, or are likely to have in the foreseeable future, including financial obligations to each other and to any relevant child.

(5) The court shall not give any direction under sub-paragraph (2) unless it appears to it that immediate payment of the sum required by the order would cause the transferee financial hardship which is greater than any financial hardship that would be caused to the transferor if the direction were given.