

SCHEDULES

SCHEDULE 1

TRANSFER OF CERTAIN TENANCIES ON DIVORCE, ETC

PART III

Ancillary jurisdiction

- 5 Where the court makes an order under Part II of this Schedule, it may by the 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 ; and where the court gives such a direction 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 of divorce or nullity of marriage, the date specified in an order under Part II of this Schedule 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 of this Schedule.

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 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.
- (3) Rules of court may provide for the transfer of proceedings pending by virtue of this Schedule in the court which granted the decree of divorce, nullity of marriage or judicial separation as follows—

Status: This is the original version (as it was originally enacted).

- (a) if the proceedings are pending in the High Court, for the transfer of the proceedings to a divorce county court;
 - (b) if the proceedings are pending in a divorce county court, for the transfer of the proceedings to the High Court or to some other divorce county court;
- and a court shall have jurisdiction to entertain any proceedings transferred to the court by virtue of rules made in pursuance of this sub-paragraph.

(4) For the purposes of sub-paragraph (3) above—

- (a) any proceedings in the divorce registry shall be treated as pending in a divorce county court; and
- (b) the power to provide for the transfer of proceedings to a divorce county court shall include power to provide for the transfer of proceedings to the divorce registry.

Savings for sections 1 and 2 of this Act

- 9 Where a spouse is entitled to occupy a dwelling house by virtue of a tenancy, this Schedule shall not affect the operation of sections 1 and 2 of this Act 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 sections.

Interpretation

10 (1) In this Schedule—

" divorce county court " means a county court designated under section 1 of the Matrimonial Causes Act 1967 ;

" divorce registry " means the principal registry of the Family Division of the High Court;

" landlord " includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling house, any person other than the tenant who is, or but for Part VII of the Rent Act 1977 or Part II of the Rent (Agriculture) Act 1976 would be, entitled to possession of the dwelling house ;

" tenancy " includes sub-tenancy.

- (2) For the avoidance of doubt it is hereby declared that the reference in paragraph 7 above to remarriage includes a reference to a marriage which is by law void or voidable.