

SCHEDULES

SCHEDULE 8

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS CONNECTED WITH PART II

The Matrimonial Causes Act 1973 (c. 18)

- 16 (1) Section 31 (variation etc. of orders) is amended as follows.
- (2) In subsection (2)—
- (a) after “following orders” insert “under this Part of this Act”;
 - (b) for paragraph (d) substitute—
 - “(d) an order for the payment of a lump sum in a case in which the payment is to be by instalments;”;
 - (c) in paragraph (dd), for “23(1)(c)” substitute “21(1)(c)”;
 - (d) after paragraph (dd) insert—
 - “(de) any other order for the payment of a lump sum, if it is made at a time when no divorce order has been made, and no separation order is in force, in relation to the marriage;”;
 - (e) for paragraph (e) substitute—
 - “(e) any order under section 23A of a kind referred to in section 21(2)(b),(c) or (d) which is made on or after the making of a separation order;
 - (ea) any order under section 23A which is made at a time when no divorce order has been made, and no separation order is in force, in relation to the marriage;”.
- (3) In subsection (4)—
- (a) for the words from “for a settlement” to “24(1)(c) or (d)”, substitute “referred to in subsection (2)(e)”;
 - (b) for paragraphs (a) and (b) substitute “on an application for a divorce order in relation to the marriage”.
- (4) After subsection (4) insert—
- “(4A) In relation to an order which falls within subsection (2)(de) or (ea) above (“the subsection (2) order”)—
- (a) the powers conferred by this section may be exercised—
 - (i) only on an application made before the subsection (2) order has or, but for paragraph (b) below, would have taken effect;
 - and

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- (ii) only if, at the time when the application is made, no divorce order has been made in relation to the marriage and no separation order has been so made since the subsection (2) order was made; and
 - (b) an application made in accordance with paragraph (a) above prevents the subsection (2) order from taking effect before the application has been dealt with.
- (4B) No variation—
- (a) of a financial provision order made under section 22A above, other than an interim order, or
 - (b) of a property adjustment order made under section 23A above,
- shall be made so as to take effect before the making of a divorce order or separation order in relation to the marriage, unless the court is satisfied that the circumstances of the case are exceptional, and that it would be just and reasonable for the variation to be so made.”
- (5) In subsection (5)—
- (a) insert, at the beginning, “Subject to subsections (7A) to (7F) below and without prejudice to any power exercisable by virtue of subsection (2)(d), (dd) or (e) above or otherwise than by virtue of this section,”; and
 - (b) for “section 23”, in each place, substitute “section 22A or 23”.
- (6) In subsection (7)(a)—
- (a) for “on or after” to “consider” substitute “in favour of a party to a marriage, the court shall, if the marriage has been dissolved or annulled, consider”; and
 - (b) after “sufficient” insert “(in the light of any proposed exercise by the court, where the marriage has been dissolved, of its powers under subsection (7B) below)”.
- (7) After subsection (7), insert—
- “(7A) Subsection (7B) below applies where, after the dissolution of a marriage, the court—
- (a) discharges a periodical payments order or secured periodical payments order made in favour of a party to the marriage; or
 - (b) varies such an order so that payments under the order are required to be made or secured only for such further period as is determined by the court.
- (7B) The court has power, in addition to any power it has apart from this subsection, to make supplemental provision consisting of any of—
- (a) an order for the payment of a lump sum in favour of a party to the marriage;
 - (b) one or more property adjustment orders in favour of a party to the marriage;
 - (c) a direction that the party in whose favour the original order discharged or varied was made is not entitled to make any further application for—
 - (i) a periodical payments or secured periodical payments order,
 - or

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- (ii) an extension of the period to which the original order is limited by any variation made by the court.
- (7C) An order for the payment of a lump sum made under subsection (7B) above may—
 - (a) provide for the payment of that sum by instalments of such amount as may be specified in the order; and
 - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (7D) Subsections (7) and (8) of section 22A above apply where the court makes an order for the payment of a lump sum under subsection (7B) above as they apply where it makes such an order under section 22A above.
- (7E) If under subsection (7B) above the court makes more than one property adjustment order in favour of the same party to the marriage, each of those orders must fall within a different paragraph of section 21(2) above.
- (7F) Sections 24A and 30 above apply where the court makes a property adjustment order under subsection (7B) above as they apply where it makes such an order under section 23A above.”