
Changes to legislation: Civil Partnership Act 2004, Paragraph 3 is up to date with all changes known to be in force on or before 21 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 11

FINANCIAL PROVISION IN SCOTLAND AFTER OVERSEAS PROCEEDINGS

PART 3

DISPOSAL OF APPLICATIONS

- 3 (1) Subject to sub-paragraphs (2) to (5), Scots law applies in relation to an application made under paragraph 2 as it would apply were the application made in an action in Scotland for, as the case may be, dissolution or annulment of a civil partnership.
- (2) In disposing of an application made under paragraph 2 the court must exercise its powers so as to place A and B, in so far as it is reasonable and practicable to do so, in the financial position in which they would have been had that application been disposed of, in such an action in Scotland, on the date when the overseas determination took effect.
- (3) In determining what is reasonable and practicable for the purposes of sub-paragraph (2), the court must have regard in particular to—
- (a) A and B's respective resources, both present and foreseeable, at the date the application is disposed of,
 - (b) any order made by a foreign court in or in connection with the overseas proceedings, being an order—
 - (i) for the making of financial provision, in whatever form, by A for B or by B for A, or
 - (ii) for the transfer of property from A to B or from B to A.
- (4) Subject to sub-paragraph (5), the court may make an order for an interim award of a periodical allowance where—
- (a) it appears from A's averments that in the disposal of the application an order for financial provision is likely to be made, and
 - (b) the court considers that such an interim award is necessary to avoid hardship to A.
- (5) Where but for paragraph 2(2)(b)(iii) the court would not have jurisdiction to entertain the application, the court may make no order for financial provision other than an order—
- (a) relating to the former family home or its furniture and plenishings, or
 - (b) that B must pay A a capital sum not exceeding the value of B's interest in the former family home and its furniture and plenishings.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)