

## SCHEDULES

### SCHEDULE 6

#### FINANCIAL RELIEF IN MAGISTRATES' COURTS ETC.

#### PART 2

#### ORDERS FOR AGREED FINANCIAL PROVISION

##### *Orders for payments which have been agreed by the parties*

- 9 (1) Either civil partner may apply to a magistrates' court for an order under this Part on the ground that that civil partner or the other civil partner has agreed to make such financial provision as may be specified in the application.
- (2) On such an application, the court may order that the applicant or the respondent (as the case may be) is to make the financial provision specified in the application, if—
- (a) it is satisfied that the applicant or the respondent (as the case may be) has agreed to make that provision, and
  - (b) it has no reason to think that it would be contrary to the interests of justice to do so.
- (3) Sub-paragraph (2) is subject to paragraph 12.

##### *Meaning of “financial provision” and of references to specified financial provision*

- 10 (1) In this Part “financial provision” means any one or more of the following—
- (a) the making of periodical payments by one civil partner to the other;
  - (b) the payment of a lump sum by one civil partner to the other;
  - (c) the making of periodical payments by one civil partner to a child of the family or to the other civil partner for the benefit of such a child;
  - (d) the payment by one party of a lump sum to a child of the family or to the other civil partner for the benefit of such a child.
- (2) Any reference in this Part to the financial provision specified in an application or specified by the court is a reference—
- (a) to the type of provision specified in the application or by the court,
  - (b) to the amount so specified as the amount of any payment to be made under the application or order, and
  - (c) in the case of periodical payments, to the term so specified as the term for which the payments are to be made.

##### *Evidence to be produced where respondent not present etc.*

- 11 (1) This paragraph applies if—

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- (a) the respondent is not present, or
  - (b) is not represented by counsel or a solicitor,
- at the hearing of an application for an order under this Part.
- (2) The court must not make an order under this Part unless there is produced to it such evidence as may be prescribed by rules of court of—
- (a) the consent of the respondent to the making of the order,
  - (b) the financial resources of the respondent, and
  - (c) if the financial provision specified in the application includes or consists of provision in respect of a child of the family to be made by the applicant to the respondent for the benefit of the child or to the child, the financial resources of the child.

*Exercise of powers in relation to children*

- 12 (1) This paragraph applies if the financial provision specified in an application under this Part—
- (a) includes, or
  - (b) consists of,
- provision in respect of a child of the family.
- (2) The court must not make an order under this Part unless it considers that the provision which the applicant or the respondent (as the case may be) has agreed to make in respect of the child provides for, or makes a proper contribution towards, the financial needs of the child.

*Power to make alternative orders*

- 13 (1) This paragraph applies if on an application under this Part the court decides—
- (a) that it would be contrary to the interests of justice to make an order for the making of the financial provision specified in the application, or
  - (b) that any financial provision which the applicant or the respondent (as the case may be) has agreed to make in respect of a child of the family does not provide for, or make a proper contribution towards, the financial needs of that child.
- (2) If the court is of the opinion—
- (a) that it would not be contrary to the interests of justice to make an order for the making of some other financial provision specified by the court, and
  - (b) that, in so far as that other financial provision contains any provision for a child of the family, it provides for, or makes a proper contribution towards, the financial needs of that child,
- then, if both the civil partners agree, the court may order that the applicant or the respondent (as the case may be) is to make that other financial provision.

*Relationship between this Part and Part 1*

- 14 (1) A civil partner who has applied for an order under Part 1 is not precluded at any time before the determination of the application from applying for an order under this Part.
- (2) If—

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- (a) an order is made under this Part on the application of either civil partner, and
  - (b) either of them has also made an application for a Part 1 order,
- the application for the Part 1 order is to be treated as if it had been withdrawn.