



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART IV

FINANCIAL PROVISION IN SCOTLAND AFTER OVERSEAS DIVORCE ETC.

28 Circumstances in which a Scottish court may entertain application for financial provision.

- (1) Where parties to a marriage have been divorced in an overseas country, then, subject to subsection (4) below, if the jurisdiction requirements and the conditions set out in subsections (2) and (3) below respectively are satisfied, the court may entertain an application by one of the parties for an order for financial provision.
- (2) The jurisdictional requirements mentioned in subsection (1) above are that—
 - (a) the applicant was domiciled or habitually resident in Scotland on the date when the application was made; and
 - (b) the other party to the marriage—
 - (i) was domiciled or habitually resident in Scotland on the date when the application was made; or
 - (ii) was domiciled or habitually resident in Scotland when the parties last lived together as husband and wife; or
 - (iii) on the date when the application was made, was an owner or tenant of, or had a beneficial interest in, property in Scotland which had at some time been a matrimonial home of the parties; and
 - (c) where the court is the sheriff court, either—
 - (i) one of the parties was, on the date when the application was made, habitually resident in the sheriffdom; or
 - (ii) paragraph (b)(iii) above is satisfied in respect of property wholly or partially within the sheriffdom.
- (3) The conditions mentioned in subsection (1) above are that—

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Section 28. (See end of Document for details)

- (a) the divorce falls to be recognised in Scotland;
 - (b) the other party to the marriage initiated the proceedings for divorce;
 - (c) the application was made within five years after the date when the divorce took effect;
 - (d) a court in Scotland would have had jurisdiction to entertain an action for divorce between the parties if such an action had been brought in Scotland immediately before the foreign divorce took effect;
 - (e) the marriage had a substantial connection with Scotland; and
 - (f) both parties are living at the time of the application.
- (4) Where the jurisdiction of the court to entertain proceedings under this Part of this Act would fall to be determined by reference to the jurisdictional requirements imposed by virtue of Part I of the ^{M1}Civil Jurisdiction and Judgments Act 1982 (implementation of certain European conventions) then—
- (a) satisfaction of the requirements of subsection (2) above shall not obviate the need to satisfy the requirements imposed by virtue of Part I of that Act; and
 - (b) satisfaction of the requirements imposed by virtue of Part I of that Act shall obviate the need to satisfy the requirements of subsection (2) above;
- and the court shall entertain or not entertain the proceedings accordingly.

Marginal Citations

M1 1982 c. 27.

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