



# Family Law (Scotland) Act 1985

## 1985 CHAPTER 37

*Financial provision on divorce, etc.*

### **10 Sharing of value of matrimonial property**

- (1) In applying the principle set out in section 9(1)(a) of this Act, the net value of the matrimonial property shall be taken to be shared fairly between the parties to the marriage when it is shared equally or in such other proportions as are justified by special circumstances.
- (2) The net value of the matrimonial property shall be the value of the property at the relevant date after deduction of any debts incurred by the parties or either of them—
  - (a) before the marriage so far as they relate to the matrimonial property, and
  - (b) during the marriage,which are outstanding at that date.
- (3) In this section "the relevant date" means whichever is the earlier of—
  - (a) subject to subsection (7) below, the date on which the parties ceased to cohabit;
  - (b) the date of service of the summons in the action for divorce.
- (4) Subject to subsection (5) below, in this section and in section 11 of this Act "the matrimonial property" means all the property belonging to the parties or either of them at the relevant date which was acquired by them or him (otherwise than by way of gift or succession from a third party)—
  - (a) before the marriage for use by them as a family home or as furniture or furnishings for such home; or
  - (b) during the marriage but before the relevant date.
- (5) The proportion of any rights or interests of either party under a life policy or occupational pension scheme or similar arrangement referable to the period to which subsection (4)(b) above refers shall be taken to form part of the matrimonial property.
- (6) In subsection (1) above "special circumstances", without prejudice to the generality of the words, may include—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the terms of any agreement between the parties on the ownership or division of any of the matrimonial property;
  - (b) the source of the funds or assets used to acquire any of the matrimonial property where those funds or assets were not derived from the income or efforts of the parties during the marriage;
  - (c) any destruction, dissipation or alienation of property by either party;
  - (d) the nature of the matrimonial property, the use made of it (including use for business purposes or as a matrimonial home) and the extent to which it is reasonable to expect it to be realised or divided or used as security;
  - (e) the actual or prospective liability for any expenses of valuation or transfer of property in connection with the divorce.
- (7) For the purposes of subsection (3) above no account shall be taken of any cessation of cohabitation where the parties thereafter resumed cohabitation, except where the parties ceased to cohabit for a continuous period of 90 days or more before resuming cohabitation for a period or periods of less than 90 days in all. 7