

SCHEDULES

SCHEDULE 3

STAY OF PROCEEDINGS

Ancillary matters

- 9 (1) Paragraph 11 is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) Sub-paragraphs (2) and (3) below apply where a stay of marital proceedings or proceedings for nullity of marriage—
- (a) has been imposed by reference to proceedings in a related jurisdiction for divorce, separation or nullity of marriage, and
 - (b) is in force.
- (1A) In this paragraph—
- “lump sum order”, in relation to a stay, means an order—
- (a) under section 22A or 23, 31 or 31A of the Matrimonial Causes Act 1973 which is an order for the payment of a lump sum for the purposes of Part II of that Act, or
 - (b) made in any equivalent circumstances under Schedule 1 to the Children Act 1989 and of a kind mentioned in paragraph 1(2)(a) or (b) of that Schedule,
- so far as it satisfies the condition mentioned in sub-paragraph (1C) below;
- “the other proceedings”, in relation to a stay, means the proceedings in another jurisdiction by reference to which the stay was imposed;
- “relevant order”, in relation to a stay, means—
- (a) any financial provision order (including an interim order), other than a lump sum order;
 - (b) any order made in equivalent circumstances under Schedule 1 to the Children Act 1989 and of a kind mentioned in paragraph 1(2)(a) or (b) of that Schedule;
 - (c) any section 8 order under the Act of 1989; and
 - (d) except for the purposes of sub-paragraph (3) below, any order restraining a person from removing a child out of England and Wales or out of the care of another person,
- so far as it satisfies the condition mentioned in sub-paragraph (1C) below.
- (1C) The condition is that the order is, or (apart from this paragraph) could be, made in connection with the proceedings to which the stay applies.”

Status: This is the original version (as it was originally enacted).

- (3) In sub-paragraph (2)—
- (a) for “any proceedings are stayed” substitute “this paragraph applies in relation to a stay”;
 - (b) in paragraph (a), and in the first place in paragraph (c), omit “in connection with the stayed proceedings”; and
 - (c) in paragraphs (b) and (c), for “made in connection with the stayed proceedings” substitute “already made”.
- (4) In sub-paragraph (3)—
- (a) for “any proceedings are stayed” substitute “this paragraph applies in relation to a stay”;
 - (b) in paragraph (a), for “made in connection with the stayed proceedings” substitute “already made”;
 - (c) in paragraphs (b) and (c), omit “in connection with the stayed proceedings”.
- (5) In sub-paragraph (3A), for the words before “any order made” substitute—
- “Where a secured periodical payments order within the meaning of the Matrimonial Causes Act 1973—
- (a) has been made under section 22A(1)(b) or 23(1)(b) or (2)(b) of that Act, but
 - (b) ceases to have effect by virtue of sub-paragraph (2) or (3) above.”
- (6) For sub-paragraph (4), substitute—
- “(4) Nothing in sub-paragraphs (2) and (3) above affects any relevant order or lump sum order or any power to make such an order in so far as—
- (a) where the stay applies to matrimonial proceedings other than marital proceedings, the order has been made or the power may be exercised following the receipt by the court of a statement of marital breakdown;
 - (b) where the stay is of marital proceedings, the order has been made or the power may be exercised in matrimonial proceedings of any other kind; or
 - (c) where the stay is of divorce proceedings only, the order has been made or the power may be exercised—
 - (i) in matrimonial proceedings which are not marital proceedings, or
 - (ii) in marital proceedings in which an application has been made for a separation order.”
- (7) In sub-paragraph (5)(c), for the words from “in connection” onwards substitute “where a stay no longer applies”.