OUTER HOUSE, COURT OF SESSION

[2026] CSOH 68

F96/24

OPINION OF LADY TAIT

In the cause

MARY BERNADETTE MCSHEFFREY or ROSS

Pursuer

against

DOUGLAS CHARLES ROSS

Defender

Pursuer: Brabender KC, Donachie Advocate; Turcan Connell
Defender: Clark KC; Brodies LLP

17 July 2026

Introduction

[1] This is a divorce action in which financial provision is in dispute. The principal disputed issue is the valuation of the defender's shareholding in DR Scotch Whisky Limited ("DRSW Limited"). Otherwise, the extent and value of the net matrimonial property are agreed. In seeking fair division of the agreed property under reference to the section 9 principles of the Family Law (Scotland) Act 1985 ("the 1985 Act"), each party contends that various special circumstances exist. The pursuer contends that she had been economically disadvantaged and that she requires reasonable provision to enable her to adjust to loss of

support on divorce. In respect of resources, the evidence focused on the realisability of the defender's shareholding.

[2] The parties were married at Edinburgh on 9 July 1988. They have an adult son, James Ross who is aged 36. He is married to Meghan Ross and they live in the United States with their daughter.

[3] The parties separated on 15 July 2024 which is the relevant date for the purposes of section 10(3) of the 1985 Act.

The Applicable Law

Statute

[4] Section 8(2) of the 1985 Act:

> "Subject to sections 12 to 15 of this Act, where an application has been made under subsection (1) above, the court shall make such order, if any, as is—
> (a) justified by the principles set out in section 9 of this Act; and
> (b) reasonable having regard to the resources of the parties."

[5] Section 9(1)(a), (b) and (d):

> "The principles which the court shall apply in deciding what order for financial provision, if any, to make are that-
> (a) the net value of the matrimonial property should be shared fairly between the parties to the marriage….;
> (b) fair account should be taken of any economic advantage derived by either person from contributions by the other, and of any economic disadvantage suffered by either person in the interests of the other person or of the family…
> (d) a person who has been dependent to a substantial degree on the financial support of the other person should be awarded such financial provision as is reasonable to enable him to adjust, over a period of not more than three years from
> (i) the date of the decree of divorce, to the loss of that support on divorce…"

[6] Section 10:

> "(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 persons

when it is shared equally or in such other proportions as are justified by special circumstances.

(2) …the net value of the property shall be the value of the property at the relevant date after deduction of any debts incurred by one or both of the parties to the marriage…
(a) before the marriage so far as they relate to the matrimonial property, and
(b) during the marriage
which are outstanding at that date…

(6) In subsection (1) above 'special circumstances', without prejudice to the generality of the words, may include —
(a) the terms of any agreement between the persons 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 persons during the marriage;
(c) any destruction, dissipation or alienation of property by either person;
(d) the nature of the family property, the use made of it (including use for business purposes or as a family 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] In respect that the parties seek orders for transfer of jointly owned heritable properties, section 10(3A):

"In its application to property transferred by virtue of an order under section 8(1)(aa) of this Act this section shall have effect as if—
(a) in subsection (2) above, for 'relevant date' there were substituted 'appropriate valuation date';
(b) after that subsection there were inserted—
'(2A) Subject to subsection (2B), in this section the 'appropriate valuation date' means—
(a) where the parties to the marriage agree on a date, that date;
(b) where there is no such agreement, the date of the making of the order under section 8(1)(aa)."

[8] Section 11(2):

"For the purposes of section 9(1)(b) of this Act, the court shall have regard to the extent to which-
(a) the economic advantages or disadvantages sustained by either person have been balanced by the economic advantages or disadvantages sustained by the other person, and

(b) any resulting imbalance has been or will be corrected by a sharing of the value of the matrimonial property or otherwise."

[9] Section 12:

"(1) An order under section 8(2) of this Act for payment of a capital sum or transfer of property may be made—
(a) on granting decree of divorce; or
(b) within such period as the court on granting the decree may specify.

(2) The court, on making an order referred to in subsection (1) above, may stipulate that it shall come into effect at a specified future date.

(3) The court, on making an order under section 8(2) of this Act for payment of a capital sum, may order that the capital sum shall be payable by instalments."

[10] Resources are defined in section 27 as present and foreseeable resources.

Case Law

[11] I was referred to the following cases:

1. *Little* v *Little* 1990 SLT 785
2. *Murdoch* v *Murdoch* 2012 SC 271
3. *Sweeney* v *Sweeney* (No 1) 2004 SC 372
4. *Savage* v *Savage* 1997 Fam LR 132
5. *Baptie* v *Baptie* [2017] SAC (Civ) 035
6. *McCallion* v *McCallion* (No 2) 2021 Fam LR 30
7. *McConnell* v *McConnell* (No 2) 1997 Fam LR 108
8. *Cunniff* v *Cunniff* 1999 SC 537
9. *Sweeney* v *Sweeney* (No 2) 2006 SC 82
10. *Foster* v *Foster* 2024 SC 99
11. *Z* v *X* 2024 Fam LR 2

12. *Coyle* v *Coyle* 2004 Fam LR 2

13. *W* v *W* 2013 Fam LR 85

14. *Wallace* v *Wallace* [2025] CSOH 73

Agreed facts

[12] The following facts are agreed in two Joint Minutes of Admissions, numbers 27 and 60 of process.

[13] The matrimonial property, as defined in section 10 of the 1985 Act, held by the parties at the relevant date included:

(a) the jointly owned matrimonial home in Edinburgh and its contents. Its value is £750,000 at the current date;

(b) the jointly owned heritable property in Strangford, Northern Ireland (used by the parties prior to the relevant date as a holiday home) and its contents. Its value was £650,000 at the relevant date and is £650,000 at the current date;

(c) the credit balances of the parties' bank accounts:

(i) £91,141 in the pursuer's Bank of Scotland account ending 0769;

(ii) £6,095 in the parties' joint Bank of Scotland account number ending 5728;

(iii) £11,672 in the defender's Bank of Scotland account number ending 0161;

(iv) £12,921 in the defender's Bank of Scotland account number ending 2448;

(v) £319 in the defender's Bank of Scotland account number ending 1164; and

(vi) £15,000 in the defender's Bank of Scotland account number ending 9466.

(d) the pursuer's investment portfolio managed by Begley Brown Financial Solutions Ltd ("Begley Brown") with a value of £632,499 (including £353,150.35

in her General Investment Account, £271,499.76 in her Stocks and Shares ISA and £7,848.89 in her personal pension);

(e) the defender's interest in DRSW Limited;

(f) the parties' respective interests in DR Scotch Whisky (Barbados) Limited which had no value at the relevant date;

(g) the defender's interest in The Old Fine and Rare Whisky Company Limited which had no value at the relevant date;

(h) the director's loan due to the defender by The Old Fine and Rare Whisky Company Limited of £9,300;

(i) the defender's interest in Alumni Spirits Limited ("Alumni") which was incorporated on 22 May 2024 and in which company the defender was the sole shareholder and director at the relevant date. The defender held all 1000 issued ordinary shares at the relevant date. On 20 January 2025, the defender transferred 800 ordinary shares: 200 ordinary shares to Andrew Morrison; 200 ordinary shares to Calum Leslie; 200 ordinary shares to Jonathan Dismuke; and 200 ordinary shares to Meghan Ross. On 9 May 2025, the defender transferred 100 ordinary shares to the parties' son. The defender retains 100 ordinary shares;

(j) the pursuer's interest in the SPPA pension from her employment as a teacher. The pension is in payment. The pursuer commenced contributions to the pension scheme prior to the parties' marriage on 15 August 1984. Her last day of pensionable service was 12 August 2012. The value of the pension, apportioned for the period of the marriage, is £258,324;

(k) the defender's interest in a Transact SIPP, account number ending 3793, with a value of £973,435. On 12 March 2025, the defender took a tax-free lump sum from the pension totalling £264,106.85;

(l) the defender's Halifax Share dealing account number ending 4952 with a value of £507,418;

(m) the defender's Transact General Investment Account, number ending 3293 with a value of £14,984;

(n) the defender's Transact ISA account number ending 3791 with a value of £288,467;

(o) the parties' vehicles as follows:

  (i) the pursuer's Range Rover Evoque with a value of £24,015;

  (ii) the defender's Porsche 911 with a value of £70,500; and

  (iii) the defender's BMW X5 with a value of £71,360;

(p) the parties' cherished number plates as follows:

  (i) MBT 4T belonging to the pursuer and on the Range Rover Evoque with a value of £800;

  (ii) D15 TTL belonging to the defender with a value of £600; and

  (iii) SR17 AUG belonging to the defender with a value of £500;

(q) the pursuer's watches and jewellery with the value of £27,405;

(r) the defender's Rolex Oyster watch with the value of £12,500;

(s) the defender's Rolex Oyster silver watch with the value of £7,000;

(t) the pursuer's interest in a horse syndicate which was relinquished after the relevant date and the proceeds of which were divided between the parties;

(u) the defender's personal whisky and alcohol collection;

(v) the defender's Archerfield debenture with a value between £12,000 and £14,000;

(w) the parties' artwork situated in both the Edinburgh and Strangford properties with a total value of £14,350.

[14] The matrimonial liabilities at the relevant date were as follows:

(a) the sum of £2,851 due by the pursuer to HMRC;

(b) the sum of £5,443 due by the defender to HMRC;

(c) the debit balance of £2,237 on the defender's Marks & Spencer credit card;

(d) the debit balance of £10,521 on the defender's American Express credit card;

(e) the director's loan in the sum of £460,919 owed to DRSW Limited by the defender.

[15] Between 1 August 2018 and 1 July 2025, the defender made payments to the parties' son totalling £1,064,399 from his Bank of Scotland account ending 2448. Of the said payments, payments totalling £117,000 were made between the relevant date and 1 July 2025.

[16] Prior to the relevant date, between 22 May 2024 and 24 May 2024, payments were made to the parties' son totalling £275,010 from the parties' joint Bank of Scotland account ending 5728. The source of the funds in the parties' said joint account was the pursuer's Begley Brown portfolio, the balance of which at the relevant date is referred to at para [13].

[17] In the 5 years to 31 March 2025, DRSW Limited had turnover as follows:

(a) in the year to 31 March 2021, turnover of £96,297;

(b) in the year to 31 March 2022, turnover of £2,425,299;

(c) in the year to 31 March 2023, turnover of £1,414,559;

(d) in the year to 31 March 2024, turnover of nil; and

(e) in the year to 31 March 2025, turnover of £1,858,839.

[18] In the 5 years to 31 March 2025, DRSW Limited's profit/loss was as follows:

(a) in the year to 31 March 2021, a loss after tax of £216,362;

(b) in the year to 31 March 2022, a profit after tax of £1,125,390;

(c) in the year to 31 March 2023, a profit after tax of £333,939;

(d) in the year to 31 March 2024, a loss after tax of £432,873; and

(e) in the year to 31 March 2025, a profit after tax of £628,142.

[19] At the year-end 31 March 2024, DRSW Limited held stock at cost of £2,250,269. At the year-end 31 March 2025, DRSW Limited held stock at cost of £3,422,336. The increase in the cost of the stock held was in consequence of DRSW Limited disposing of grain whisky in exchange for malt whisky (excluding Islay whisky).

[20] At the relevant date and 30 September 2024, DRSW Limited held stock of 265,519.8 litres of grain whisky. Between 30 September 2024 and 31 December 2024, DRSW Limited disposed of 254,641.8 litres of grain whisky in exchange for 94,200.2 litres of malt whisky (excluding Islay whisky). At 31 December 2024 and 31 March 2025, DRSW Limited held stock of 10,878 litres of grain whisky. In the accounts of DRSW Limited to 31 March 2025, filed at Companies House, the company reported income from the disposal of grain whisky totalling £1,758,743 and the cost of the grain whisky disposed of as being £629,809.

[21] At the relevant date and 30 September 2024, DRSW Limited held stock of 311,564.8 litres of malt whisky (excluding Islay whisky). Between 30 September 2024 and 31 December 2024, DRSW Limited's stock of malt whisky (excluding Islay whisky) increased by 94,200.2 litres on the disposal of grain whisky in exchange for malt whisky (excluding Islay whisky) as referred to at [20] above. At 31 December 2024 and 31 March 2025, DRSW Limited held stock of 405,765 litres of malt whisky (excluding Islay whisky).

[22] In the financial year to 31 March 2025, DRSW Limited generated after-tax profits of £628,142. Dividends totalling £136,000 were declared. The defender was allocated dividends of £59,000.

Pursuer's case

(i) Evidence of the pursuer

Prior to separation

[23] The pursuer is aged 67. She is a retired English teacher. She taught in promoted positions as an assistant principal teacher and as an acting principal teacher. After the parties' marriage, the pursuer relocated to England for the defender's work. Their son was born in March 1990 and the pursuer returned to teaching when he was 3 months old. Shortly after, the family moved back to Edinburgh. The parties intended to educate their son privately and the pursuer continued working to assist in funding his schooling.

[24] The defender works in the whisky industry. He initially worked with Guinness and secured a position with Diageo when the parties moved to Edinburgh. He developed the barcode labelling system into the whisky industry. Following his departure from Diageo, he turned to consultancy. In 2003 the defender, backed by others, resurrected Tullibardine, a mothballed distillery. He was a co-owner and managing director. The business was sold in 2011. The defender, along with friends, established DEAD Whisky Limited, a company which bought and sold whisky. The defender then suggested that the pursuer should retire from teaching. She wished to retain a degree of financial independence and to retire only when ready to do so. She retired in 2013.

[25] The defender subjected the pursuer to abuse. He displayed coercive control. The pursuer tried to make the marriage work and wanted the defender to show love and

affection. They had a toxic relationship. The defender was physically abusive towards her on several occasions throughout the marriage and became more emotionally abusive. For a long time, the defender did not operate as though they were a team. He stated that he did not need to be monitored or to tell her things. He persistently belittled the pursuer and consequently her self-esteem and self-belief started to erode. He set out to humiliate and degrade her. He made her fearful of what would happen if they separated. He said that their son and his wife were "done with" her. In the last few years before separation, the defender became more distant and was increasingly rude and aggressive. The psychological abuse eviscerated the pursuer's role as a wife. In the months prior to separation, the defender would leave without telling the pursuer his whereabouts. Everything became on his terms.

[26] On 15 July 2024, the defender told the pursuer that he wanted to separate. Their son and his wife stopped talking to her. The parties continued to reside in the matrimonial home. The pursuer believes that the parties' son and his wife were aware of the defender's plan to separate. She is increasingly worried that financial decisions were taken with a looming separation in mind. The separation from the defender and from her son and his family has had a devastating impact on the pursuer and her mental health.

Transfers of money to the parties' son

[27] The parties' son is highly intelligent. He studied in the US on a golf scholarship and graduated in 2014. He is a professional golfer. The parties have been incredibly generous to him and have supported him in pursuing a challenging and not lucrative career as a golfer. His wife is involved in the defender's new business venture in the US. The parties' son and his wife purchased a property in Texas. In May 2018, the parties gifted £1 million to their

son to purchase the house. This decision was driven by the defender. The purchase price was around 650,000 to 670,000 pounds sterling or US dollars. The house did not require much money spent on it.

[28] In May 2024, the parties gifted, at the defender's direction, an additional £275,000 to their son. It was gifted from their joint bank account but the funds came from the pursuer's Transact investment accounts. The suggestion was that this could be given to redeem the mortgage over his property. The pursuer questions why he required to have a mortgage because he was gifted £1 million to purchase the house. She queries whether this £275,000 or some of the previously gifted money was used for other purposes. She wonders if this sum may have been used in connection with Alumni, the company which the defender established in May 2024, and in which both their son and his wife are now directors and shareholders. Alternatively, she worries that their son might have set funds aside to purchase a property for the defender's use after divorce.

[29] The pursuer was uncomfortable with the decision to gift an additional £275,000. The parties had given enough to their son and his wife when they were able to obtain lucrative employment. That was communicated at a meeting with their financial advisers, Begley Brown, in February 2024. The pursuer wanted some time to think about the proposed gift. Shortly after the meeting, the defender screamed at the pursuer and threatened to leave her if she did not agree to transfer the money. On 19 April 2024, the defender texted the pursuer saying, "this needs to be done asap!" (7/124). The pursuer felt pressured to agree. She was persistently treated as an outsider when it came to financial decisions with Begley Brown as the defender's business acumen and decision-making were so dominant. It was not the pursuer's world. She has been disadvantaged because of this disposal. The withdrawal of her funds to make the gift had a significant impact on her finances. She questions the

defender's motives in making her agree to it. Throughout the marriage, she was excluded from financial discussions and decisions. Even the decision to give £1 million to their son was presented as a *fait accompli*. She was told that it would be good for inheritance planning purposes. Were she not to agree, she would look to be the ungenerous, unkind and unsupportive parent.

[30] Notwithstanding their son's age and earning potential, the parties continued to support him on a monthly basis. At the time of separation, the pursuer was aware that the defender was gifting the sum of £3,500 per month. She was not consulted about the monthly amount. She discovered that the defender had increased the contribution to £4,000 per month by November 2024, notwithstanding his insistence that he was unable to support her. She was also aware that the defender transferred money to their son and his wife to purchase cars. Over and above the £1.275 million which they transferred for the house in Texas, and the monthly payments of £3,500, the defender transferred significant additional sums to their son from his personal bank account. Aside from the cars, the pursuer was completely unaware of this. Prior to separation, the defender transferred a total of £947,399 to their son. From the relevant date until 18 July 2025, the defender transferred a total of £117,000. Those sums include the monthly payments and payments for the cars. In total, the defender has orchestrated gifts of at least £2,339,399 to their son since around 2018. The pursuer does not know what arrangement the defender has made with their son in respect of the funds. In addition, the defender has gifted shares in Alumni to their son and his wife. Through DRSW Limited, the defender is providing interest free funding to Alumni.

[31] The parties engaged Begley Brown in February 2012. Initially the pursuer was not asked to attend meetings. When she asked to be more involved, she was invited to meetings from 15 January 2020. She felt like a bystander and that any input was dismissed or

overlooked. She did not understand their portfolios or the reasons why certain financial decisions were taken. The defender's voice was overwhelmingly listened to as the businessman. Both parties have an investment portfolio managed by Begley Brown. These were managed as though the parties were a united front.

Edinburgh and Strangford homes

[32] While born and raised in Northern Ireland, the pursuer has lived in Edinburgh for over 40 years. It has been her family's home. She has a real appreciation of the arts and culture which Edinburgh has in abundance. She has maintained friends here. Despite her love of Strangford, it would be difficult to leave Edinburgh entirely.

[33] The defender showed little interest in and had no input into development of the Strangford property. He is likely to spend much time in the US with the parties' son and his family. Strangford is close to the pursuer's hometown. She has longstanding friends in Northern Ireland. She has become part of the Strangford community. She feels comfortable there. Over 3 years, the pursuer developed the property, designed the interior, and spent a considerable amount of time selecting furnishings. She project-managed the renovations and the property is unequivocally her work. The whole project grew her confidence. She regained self-belief in her abilities which had been undermined in the marriage.

[34] Following separation, the pursuer wanted to retain the freedom and flexibility to go between the Edinburgh and Strangford properties. The defender pressured her to decide which property she would occupy. In October 2024, she proposed that the defender base himself in Strangford in the main and she would retain the Edinburgh property for the time being. The defender moved into Strangford in December 2024. He exhibited disregard for the fact that the pursuer is joint owner of both properties and shares the same rights to

occupy and access the properties. The pursuer intimated that she intended to occupy the Strangford property for August 2025. In the face of the defender's refusal and as he was not using the property consistently, she moved into the Strangford property on 21 July 2025. She has lived there since and wants to remain there.

Defender's career in Scotch whisky industry

[35] After the defender sold Tullibardine, he and his business partner, Christine Barnes, established DRSW Limited. During the marriage, the pursuer was aware that he and Christine Barnes had intentions to sell the business. She understood that they wished to sell the business in late 2024. The defender's position is that the whisky industry is currently depressed due to global economic pressures and that they may have difficulty in selling the business. In these circumstances, the pursuer considers it bizarre that the defender has established a new whisky business alongside their son and his wife with specific links in the US. Alumni was incorporated on 22 May 2024 shortly before the defender intimated that he intended to separate. The parties' son's wife was appointed as a director on 20 January 2025. Their son was appointed as a director on 9 May 2025. The whisky is currently being sold at a liquor store in the US. The pursuer believes that the defender proposes to introduce it to universities in the US. She was deliberately excluded from any such discussions by the defender, their son and his wife.

[36] It is minuted from a meeting with Begley Brown (6/6) that the defender would receive around £4 million before tax if he were to sell his interest in DRSW Limited. For the purposes of making financial decisions on their behalf, Begley Brown assumed that the defender would sell his interest for £3 million net when he was aged 65.

[37] DEAD Whisky Limited was a business in which the defender was previously involved with others. It was sold in late 2022. The pursuer is unsure about what sale proceeds the defender received. Some of the proceeds were put towards the renovations of the Strangford property. She was excluded from any financial discussions.

Defender's whisky collection

[38] The defender holds a valuable whisky collection of which the pursuer was unaware and which the defender chose not to disclose until late in proceedings. The pursuer found and photographed many bottles of whisky in their home. A valuation has been prepared for 15 bottles whereas the pursuer located and photographed over 60 bottles.

Standard of living

[39] The parties enjoyed a high standard of living in the later years of the marriage. Their plan had been to divide time between Edinburgh, Strangford and Texas, visiting their son's family in Texas three or four times per year. They flew business class, and occasionally first class. As is minuted from a meeting with Begley Brown in February 2024, the parties were spending around £15,000 per month on outgoings. The pursuer was never party to how much things cost. The defender took charge of all finances. He was financially controlling.

[40] Following upon separation, there is a marked antithesis between how lavishly the defender has been living (eating in salubrious restaurants and travelling extensively) whereas the pursuer has been buying discounted food and has been unable to travel. She has eaten out a handful of times and has had one holiday abroad in Europe.

[41] In 2019, the pursuer received a tax-free lump sum of £35,753 from her SPPA pension. It was paid into her personal bank account. Since 2019, she has received monthly pension

income. Pre-separation, the pursuer did not use her personal account for day-to-day expenditure. Her pension lump sum remained intact. At separation, the credit balance was £91,225.85. On 17 December 2024 an order for interim aliment was made in the sum of £2,000 on the basis that the defender would continue to meet the monthly outgoings in respect of both homes. Income at this level is insufficient to support her lifestyle. She has struggled financially since separation, notwithstanding that she has lived a very modest lifestyle. She has depleted her capital to pay reasonable expenditure and to fund legal costs. Her savings are almost depleted. Following the court order, the defender took steps to cancel various policies which were previously joint and her BUPA cover was not renewed when it ended on 28 February 2025. The defender's behaviour since separation has exemplified his cruel dismissiveness of her and has demonstrated his intention to maintain complete financial control. This has been part of a carefully thought out and pre-meditated plan. The defender took financial decisions for his own benefit in the knowledge that he intended to separate.

[42] The total expenditure for the Strangford property is £1,055 per month. The total expenditure for the Edinburgh property is £1,755 per month. Her total monthly income is £1,968 (SPPA pension of £1218 per month and state pension of £750 per month). Her total monthly expenditure is £6,835. She has a deficit of expenditure over income of £4,867.29 per month. The breakdown of income and expenditure is set out in the pursuer's affidavit (61 of process) at [85].

Evidence of the pursuer's other witnesses

[43] Christine Barnes is a qualified accountant and director of DRSW Limited. Having worked with the defender at Tullibardine Distillery, the defender invited Mrs Barnes to join

DRSW Limited to assist with the finance and administrative side of the business. She became a co-director in September 2015. She has not invested any money in the company. She manages the whisky stock and bank lending facilities.

[44] The defender has the front facing role of the company. He deals with selling, purchasing and exchanges of stock. He keeps his ear to the ground as to the state of play in the industry and any opportunities for trading. The company is embedded in stock and ageing it appropriately. They acquired and sold bulk stock rather than bottled products. In the past 2 to 3 years the industry has changed dramatically. Since COVID-19 interest costs have been high and the volatility around tariffs has caused uncertainty. Over-supply is squeezing prices. In the final quarter of 2025, their stock devalued by £250,000. It is not the right time to force a fire sale when prices are at rock bottom.

[45] Mrs Barnes and the defender had discussed when they would look to sell the company but did not put a specific date on it. There was nothing concrete about how they would sell the company. The defender put out feelers to see if there was any interest. There were one or two parties with whom he had discussions but it did not result in any offers. They have not had any potential buyers, only potential interest. They thought about selling the business probably in the next 5 to 10 years (corrected to 3 to 5 years as more realistic). Before the parties separated, they were not actively looking for a buyer. The defender is a 51% shareholder and the witness is a 49% shareholder. They have always agreed to take big decisions together. While it is still the plan to sell the company, it does not look likely in the next 5 years or so unless things take a dramatic upturn. That looks unlikely at the moment. They would potentially be making a loss.

[46] They need to keep a close eye on the bank lending. They are vastly reducing dividends. The bank interest and warehouse rents are essential costs. The biggest

transaction since July 2024 was a swap of stock to restructure stock to have more malt than grain. The ratio of the swap was based on the Virgin Money matrix which is used as an industry standard. The overall stock value was unchanged but the profile was potentially much more attractive to potential buyers. Aside from the exchange, there has not been a market to sell stock unless for below value. There was a small sale to a small batch whisky bottling company.

[47] DRSW Limited paid for consultancy work on behalf of Alumni and this was recharged to Alumni. The defender is a director of Alumni. DRSW Limited supplied Alumni with Linkwood malt spirit for them to bottle. The sales invoice remains unpaid and is a debt on the balance sheet. DRSW Limited has not loaned any money to Alumni. There has been no formal agreement regarding repayment terms.

[48] In terms of bank lending, the company provides a valuation to Virgin Money quarterly. At the end of each quarter, they receive a matrix from Virgin Money to apply to their stock profile. With no change in stock holding, the total value has decreased by over £500,000 (6%) in December 2025 as against December 2024. The matrix is used across the industry. Iain Hamilton produced the matrix for the bank prior to his retirement. It is part of the loan agreement that the company uses the matrix. The company's lending facility allows it to draw up to £5 million. The maximum loan to value (LTV) is currently 75% limited to £5 million of borrowing. The current stock value is £8.755 million. The stock value informs the LTV. Their current LTV is 52% and the total loan is £4.54 million. The company is getting close to its limit. The current loan agreement expires in October 2026 and will require to be renegotiated. Other industry companies are being reduced to 65% LTV. Virgin Money holds a floating charge over the company and if the loan terms are defaulted, they could call up the charge and force the sale of stock. The bank is reliant on

accurate information about the stock value and audits the full spreadsheet listings showing every cask, using their valuation multiplied by the relevant litres of alcohol.

[49] Matt Smith is a chartered financial planner and Fellow of the Personal Finance Society. He is certified as a pension transfer specialist. He was instructed on the pursuer's behalf to consider the suitability of receiving a pension credit as part of an overall settlement of matrimonial assets. His report is dated 9 July 2025 (6/69).

[50] Mr Smith considered a pension credit in favour of the pursuer in the region of £500,000 against receiving a cash payment or property. He proceeded on the basis that the defender withdrew a tax-free lump sum of £264,107 in March 2025 and that he has no lump sum allowance (LSA) remaining. A pension credit from a pension fund where the tax-free lump sum has been taken is deemed to be a "disqualifying pension credit".

[51] A pension benefits from tax free growth on the underlying investments and can be drawn in a flexible manner as taxable income. As the defender has used the available lump sum allowance, any transfer and subsequent investment growth will not attract any entitlement to tax-free lump sums in the pursuer's lifetime or on her death. Any benefit drawn will be subject to income tax at the pursuer's marginal rate which is likely to be at least at the Scottish Higher Rate (42%). A transfer from an uncrystallised fund would have been much more valuable to the pursuer. She has available allowances that would enable her to increase her pension funds to as much as £930,087 and benefit from a tax-free withdrawal of £232,522. Receiving a cash amount or alternative asset would provide the pursuer with more financial planning flexibility and the opportunity to implement other tax efficient structures over the medium to long term. There is not a clear incentive to opt for a pension share. In relation to heritable property, a second property would be assessed for CGT at 24% or 28% as opposed to 42% or 40%.

[52] Mr Smith also spoke to a cashflow plan prepared for the pursuer dated 26 February 2026 (6/128). Currently, the pursuer's annual expenditure (£60,342) exceeds her annual income (£24,842) by £35,500. The pursuer's life expectancy is to age 88 as an ONS generated average. It is projected that the pursuer's available funds to meet any shortfall in income will be expended by age 77. The pursuer would retain any heritable property as she would require somewhere to live. There would be potential for an equity release or to downsize. The pursuer would require immediately a lump sum of £1,180,400 (assuming its investment in her General Investment Account) to be able to fund retirement. That does not assume a pension credit.

Defender's case

Evidence of the defender

[53] The defender is aged 63. He is a director of DRSW Limited. The parties have been separated for more than one year and the defender consents to the granting of decree of divorce. The parties' marriage had been difficult for some time. The pursuer's relationship with family and friends impacted upon the marriage. Nothing seemed to make her happy and she seemed to have no gratitude for what they had achieved nor the happiness their son and his family brought them. However, in July 2024 the defender had no intention of separating. There was an argument when their son and family were visiting. It was the straw that broke the camel's back. An altercation took place around their granddaughter who was then aged 3. She damaged an ornament and the pursuer tore a strip off her in a nasty way. Consequently, their son and his wife left earlier than planned. When they left, the defender told the pursuer that he was done. The pursuer's behaviour had already

resulted in them being distanced from friends and the defender was not going to let this happen to their son and his family.

Edinburgh and Strangford homes

[54] The parties bought a holiday home in Strangford in 2021. They spent £1.3 million acquiring and then extensively renovating the property. There were no restrictions on what the pursuer could spend. They spent £13,000 on an Aga; £32,000 on sofas and chairs; £115,000 on an orangery; £23,000 on bathrooms and fittings; and £80,000 on the kitchen. The defender did not set a budget although did not appreciate that it would run into the costs which it did. It was all family money. The level of expenditure may have been unwise as it is not reflected in the value. The money was not spent as an investment. The house was part of their life going forward. Their plan had been to spend time between Edinburgh, Strangford and Texas. Following the present action being served in November 2024, the defender gave the pursuer the choice where to live. Initially it would have been more convenient for the defender to live in Edinburgh because of business and golf connections. Eventually they agreed that the defender would live in the house in Strangford from December 2024. He remained there until mid-July 2025 when the pursuer moved into Strangford without notice. He felt that he could not go back to Strangford as he did not want to be confronted by the pursuer.

[55] The defender seeks transfer of the Strangford property into his sole name. It is a beautiful house in a great location. He was very comfortable there during last year. He integrated into the community, enjoyed the golf and socialising and made many new friends. As he heads into retirement, Strangford is where he wants to base himself. It would be wrong to end the marriage without a roof over his head.

Source of the parties' wealth

[56] The defender sold his interest in Tullibardine Distillery in 2011 for £1.65 million gross and then the parties were better off financially. In 2012, he established DRSW Limited. The parties have benefited from the successful sales of businesses over the years. With three friends, the defender set up 3R Whisky Limited in 2014 which like DRSW Limited invested in Scotch whisky as stock. In 2018, 3R Whisky Limited sold its bulk whisky stock and the defender received £4.6 million less tax of around £400,000. The parties set up investments with Begley Brown. The sums from 3R Whisky Limited were invested in accounts for each of the parties and their son. The defender transferred his Diageo pension into a Transact SIPP. The parties started to enjoy nice holidays, travel first or business class, buy expensive jewellery and were able to pay for their son's wedding at Archerfield in 2019. In spreading their wealth, the parties' motivation was to ensure they were all comfortable and followed advice from Begley Brown and their accountants in terms of inheritance tax ("IHT"). They took the financial planning exercise very seriously. It cost a percentage of their wealth to obtain the advice which included advice to preserve their wealth for the benefit of their son and his family. The pursuer was invited to the Begley Brown meetings and was able to attend any meetings she wanted.

[57] The defender started another company DEAD Whisky with the same three friends. It followed the same business model and eventually was sold during 2022. Each of the four directors received £2 million. The defender paid £520,000 tax that year and repaid his outstanding director's loan of £380,000 to DRSW Limited. Some of the money from that deal, plus a further director's loan from DRSW Limited, was spent on the Strangford property.

DRSW Limited

[58] DRSW Limited was set up to invest in Scotch whisky and take advantage of the opportunities that arose where principal distillers and distillery owners have an imbalance in their stock profile and require to plug gaps. It is a third-party supplier of stock to whisky industry companies. The business model involves taking advantage of an oversupply of stock. It acquires the stock and holds that stock until a shortage occurs. It then approaches those distillers and sells back their own stock. The defender liaises with industry colleagues. He looks for opportunities to buy from, sell to and exchange with other Scotch whisky companies and takes advantage of market dynamics. The majority of transactions are exchanges of whisky rather than sales for cash. The purpose is to improve the profile of the stock and increase the balance sheet so that there is a healthy balance sheet to sell on. The defender believes that brand equity should reside with the distillery owner. He would therefore approach the brand owner first and offer their casks back. The volume of whisky on the books at any time depends on market dynamics or attractiveness of stock.

[59] The company finances its business through borrowing from Virgin Money. The bank loan is presently £4.545 million which is the highest it has ever been. Virgin Money requires the company to produce quarterly stock valuations to provide the bank with an anticipated value of the inventory, based on the wider market in the industry. Virgin Money will email quarterly matrices to apply to the stock listing. Virgin Money's valuer was Iain Hamilton until the start of 2025 and is now Dr Alan Wright. These valuers will talk to industry companies on a private and confidential basis and gather what information they can glean on deals and the value of stock. They then prepare independent matrices. The bank has always limited borrowing to 75% LTV. However, they are now typically lending at 65%

LTV. The facility is due for renewal in October 2026. The defender's concern is that the borrowing facility will be reduced to 65% in line with others in the sector.

[60] There has been almost no opportunity to sell stock in the last 18 months, certainly in the last year. The company sold a small quantity for £5,500 and sold some stock to Alumni to get the product to market in the US as proof of concept. The invoice remains unpaid by Alumni. Historically DRSW Limited would have some level of sales to allow it to pay down the bank loan and keep the loan at £3 to £3.5 million. There has been almost no ability to sell stock and generate cash. The Scotch whisky industry is going through a downturn influenced by geopolitics, tariffs and societal changes. It has been catastrophic for many businesses. DRSW Limited is under serious pressure.

[61] DRSW Limited has benefitted in the past by leveraging its bank facility to provide increased borrowing while retaining the stock. The increase in the market value of its stock in past years has allowed it to use its debt facility to its advantage. However, 2025 was very challenging for the industry and for the company. It had no sales in year 2023/24 and posted significant losses of £432,873. In March 2025 it posted a profit of £628,142 but that was a paper profit created essentially through the exchange of stock and the improvement of the stock profile. It did not create income or cash in the bank. The exchange was made with a view to improving the company's stock profile in connection with a prospective sale of the business which did not materialise. The company is a supplier of last resort for whisky companies. As demand has been falling, they do not need its stock. The dynamics of the industry have changed in recent years with aged grain in an overabundance of supply with no appetite in the market other than for hugely discounted parcels of stock. Islay malts remain the company's real attraction. However, a sale of the Islay malts without selling the rest of the stock would leave the company in a perilous position. The company's only real

option is to ride out the storm by battening down the hatches, reducing outgoings where possible, and to wait for better times to return. Soundings indicate that the downturn will run through 2026 and possibly 2027. It is anticipated there will be a hangover and sluggishness for the next 2 possibly 3 years, maybe to the end of 2028. The value in companies will be diminished.

[62] The defender was engaged in discussions with a company in late 2024 about selling the business. He keeps a close ear to the ground to see if anyone needs stock or if there is any potential interest in a sale of the business. Currently there is neither.

[63] A reduced LTV facility of 65% would give less headroom and would diminish the ability to draw funds. It will not allow time to find a solution to the company's difficulties. The company would need to sell stock to generate cash to keep the business afloat as well as to pay the pursuer but there are no buyers. A reduced loan facility would mean that the company could borrow only up to £5.7 million against current stock value. That would give approximately 2 years to turn the business around rather than three if it retained a higher LTV facility.

[64] The defender and his co-director stopped drawing any income from February 2025. Prior to that, the defender drew £10,000 each month, comprising a dividend of £5,100 and any additional drawings were allocated to his director's loan account. It seemed prudent to stop drawings on the back of the downturn and to show good faith to the bank.

Potential sale of DRSW Limited

[65] Pre-separation, there had been an eye to sell in the next 2 or 3 years. That crystallised when the parties separated. In 2024, there were some high-level discussions with a potential

buyer but by mid-2025 it was clear that would not proceed due to the downturn in the market.

Monetary gifts to the parties' son

[66] In every meeting with Begley Brown since around 2017 or 2018, IHT has been discussed. They have always advised to give away as much as possible to their son. That has always been the strategy. The parties attended the annual review together every year. Begley Brown went out of their way to explain in layman's terms what was happening, why and their advice. There was a lot of focus on IHT and lifetime gifting with their son as the beneficiary. Both parties were very supportive of their son and his endeavours. They financially supported him by giving a monthly sum from their excess income. The monthly payments started when he was at university. Initially it was what they could afford but after the Tullibardine sale, they could be more generous. The payments both supported their son and were legitimate IHT planning. Between August 2018 and June 2024, they gave £3,500 per month. From June 2024, the monthly support increased to £4,000. This stopped in July 2025 as the defender could not afford to continue. The parties' good fortune in 2018 allowed them to support their son further financially and allowed him to put a deposit on a house in the US.

[67] Any money the parties had was always considered family money. The parties discussed at length whether it was right to give their son almost £1 million. The pursuer was concerned that it might make him complacent. They had always wanted to support him in his career. They knew that the payment would give him financial security and enable him to get married and consider having a family. It was a joint decision to give the money. Each of the parties and their son received substantial amounts. They shared their

wealth around the family which was consistent with the IHT advice received. A schedule of payments has been lodged (6/115). This shows larger transfers as well as the monthly amount. Transfers of larger amounts like £70,000 would be when their son and his wife needed cars. The £275,000 in May 2024 was to enable them to pay off their mortgage. The defender transferred £25,00 in February 2025 as they needed to replace their roof following storms. In respect of the transfer of £275,000 to pay off their mortgage, the parties had depleted the defender's General Investment Account before dipping into the pursuer's General Investment Account. It was all family money, so it did not matter where the money came from. The payment of £83,000 came from the defender's mother's estate and was transferred for their granddaughter's education fund.

[68] The pursuer knew on a monthly basis what they were giving and that the defender would transfer money regularly for extra things. The pursuer was as concerned as the defender that their son was comfortable financially. The defender would not transfer sums without her knowing. The pursuer was not reluctant but she was reticent to give too much. The parties understood the 7-year rule for IHT and wanted to give the money when fit and well.

[69] After separation, the defender supported their son and his wife for as long as he could and gave them as much notice as he could so their oxygen supply was not cut off. He felt it was only fair to do that. He stopped taking drawings from the business in February 2025, so in July 2025 he had to call a halt to the monthly support.

Whisky casks

[70] The pursuer's whisky valuer (David Robertson) suggests that the whisky casks have a value of around £300,000 against a book value of around £30,000. That is neither

reasonable nor does it reflect what is done in the market. When selling stock, there is no separate charge for the casks unless in very rare one-off small sales scenarios. The phrase is "wood included".

Director's loan

[71] Both Christine Barnes and the defender borrowed funds from DRSW Limited in good faith when the market looked positive and there did not seem to be too much risk associated with borrowing funds from the company. The value of the defender's loan in July 2025 was £467,218. It is now in the region of £485,000. Refurbishment of the Strangford property was funded in large proportion from his director's loan.

Alumni

[72] The parties' daughter-in-law has an interest in Scotch whisky. In 2020, she and the defender discussed setting up a business in the US. Alumni is a brand with unique elements, namely selling Scotch whisky to university alumni. It has taken 5 years to develop the concept and to have a brand. The sales are small and slow but it has the hallmarks of a small manageable business. It is loss making. The defender put funds in to get it up and running and to sustain the business on a shoestring until it proves whether it is viable or not. The defender initially held 100% of the shares because of UK Customs requirements. The plan was that it would be other people's business. As it developed over 5 years, other individuals came on board. No money was paid for the share transfers as the shares had no value. The defender will exit when he can. He gave half of his shares to the parties' son and will give the balance in due course. He funded Alumni initially on the basis of a director's loan to Alumni. The funding came from the drawdown of his tax-free lump sum from his

pension. There is no possibility of recovering this in the near future, although possibly in the long term. Five years is not unreasonable given the state of the market.

Financial support for the pursuer

[73] Since before the order for interim aliment, the defender has funded his personal outgoings by increasing the facility with Virgin Money and increasing his director's loan. Since separation, he has funded the outgoings for both houses. This has been funded from capital or drawings from the business, which is in effect from bank borrowings, or from the sale or cashing in of investments. He has spent about £100,000 on the properties and on aliment since July 2024. He has spent over £350,000 on legal costs to date. He has sold his Diageo shares, Porsche, and Archerfield debenture and drawn down on his pension. The pursuer has lived in the parties' properties cost free and had £2,000 aliment per month. She had £700,000 of assets in her name when they separated. Her investments are likely to have increased by 10% per annum.

[74] The defender does not have the wherewithal to pay the pursuer out immediately without selling the house. He requires a home. If there is to be any hope of recovery for the business, he needs time. He cannot borrow money. For that reason, he seeks 3 years to make any payment to the pursuer.

Pension

[75] Last year, the defender needed cash and it seemed most efficient to take it out of his pension when he stopped drawing from the business. He drew down £264,106.85 in March 2025. From this he funded interim aliment, household outgoings and £4,000 per month to the parties' son until July 2025. He also supported their son with £25,000 to

renew their roof following storm damage. He spent £6,000 on car repairs which were recouped on sale of the Porsche. He spent £45,000 on bottling charges for Alumni and £18,000 meeting various invoices for Alumni. The balance was spent on legal fees, business and living costs.

Resources

[76] Since February 2025, the defender has not taken drawings from DRSW Limited. He has drawn down on capital, increased his debt to the company and sold assets to pay the outgoings since February 2025. His capital will be significantly depleted after the conclusion of this case. He will not have the income nor the resources to support the pursuer beyond divorce. 7/129 is an updated valuation of his portfolio of investments with Begley Brown as at 1 December 2025. His total portfolio value is now £1,239,544. This is made up of (i) his General Investment Account with a balance of £5.98, (ii) his stocks and shares ISA which is broken down into a timeline classic 60 ISA with a value of £175,920 and a timeline tracker 60 with a balance of £177,694 and (iii) his SIPP which has two elements: a timeline classic 60 with a balance of £440,148.03 and a timeline tracker 60 with a balance of £445,775.52.

[77] Production 7/128 is a schedule of the defender's projected expenditure on the basis that he retains the Edinburgh property albeit his preference is for the Strangford property to be transferred to him.

[78] Applying the quarter 1 of 2026 Virgin Money matrices to DRSW Limited's stock profile at 31 March 2026 produces a value of £9,865,536. Following preliminary discussions with Virgin Money, the proposal was for a staggered loan facility over the next 3 years with 55% LTV from March 2026, moving to 60% in March 2027 and then finally 65% in March 2028 for the remaining term. Subsequently, a loan facility was agreed in principle for

one year until October 2027 with 65% LTV. This requires to be signed off by the credit team. An email from Virgin Money (7/216) refers to a condition that the amount of directors' "takings/ advances" are "restricted/limited". The facility letter of 22 October 2020 (7/113) confirms the facility is only for (i) refinancing existing loans and (ii) the purchase of stock. It would be a breach of the loan agreement if the defender were to use the facility to make payment to the pursuer.

(ii) Evidence of the defender's other witnesses

[79] Christopher Brown is a chartered financial planner and director of Begley Brown. Begley Brown has advised the parties on their personal finances since 2012, meeting on an annual basis with advice occasionally given between meetings. Begley Brown has notes of the pursuer being in meetings from 2015 but the records between 2012 and 2015 are silent. Certainly since 2018 every annual review was conducted with both parties present (from records). That is when conversations about IHT started ramping up. In 2018, they discussed with the parties gifting £1 million to their son and the IHT consequences. They also reviewed whole of life insurance. The parties were gifting £3,000 per month to their son. In January 2020, the annual review with the parties revisited IHT and explored ways to mitigate it. Again, gifting money was suggested but the pursuer was not fully comfortable with this strategy. Life policies were considered at the 2021 annual review as part of the IHT discussion but were not proceeded with. In November 2022, they looked again at the idea of gifting and it was discussed that £500,000 could easily be gifted without any compromise of the parties' lifestyles. It was agreed that there was no rush for this gift and that it would be picked up at their next annual review in February 2024.

[80] At the February 2024 annual review, they discussed gifting £275,000 to the parties' son to repay his mortgage. Begley Brown has a separate relationship with the parties' son and his wife. They discussed a growing IHT liability due to the overall asset base of the family. A gift of £275,000 would come from the pursuer's Transact General Investment Account. The pursuer was hesitant in the meeting about gifting further capital. She was unsure given how much help their son had had. Matters were left that the parties would think about and discuss the gift. The defender was less cautious about gifting and was keen to proceed with the withdrawal. It made most sense to withdraw from the pursuer's account from a tax perspective. It was prudent to wait to proceed with this gift until after 6 April 2024 when the pursuer would have a full capital gains allowance. On 8 April 2024, Begley Brown contacted the parties to establish whether they wished to proceed. There was no major urgency. They set out the capital gains tax scenario and awaited the parties' approval. On 17 April 2024, Begley Brown received an email from the pursuer advising that she agreed to the withdrawal from her General Investment Account to fund the gift to the parties' son. The pursuer thanked Begley Brown for their help and remarked that the transfer would be a huge help to their son and his family. For IHT purposes, it was better to be a joint gift. Begley Brown liaised with the parties' accountants around the exact capital gains tax and the funds were paid into the parties' joint account on 3 May 2024. The pursuer was copied into emails to ensure that she was aware that the withdrawal was being processed. Capital gains tax for the withdrawal was assessed in the approximate sum of £900.

[81] In the annual review on 8 February 2024, they discussed the couples' lifetime cash flow model. There were considerable surplus assets that demonstrated that gifting £275,000 would not affect the parties' ability to maintain their desired standard of living throughout

retirement. On that basis, Begley Brown advised that such a gift was not only affordable but also IHT efficient.

[82] Begley Brown very much treated the pursuer as an individual. The firm has a caring culture. Meetings with the parties could last two to three hours. Begley Brown took care to make sure the pursuer understood the options and opportunities. They used financial modelling software. Their projections were conservative. Alastair Haddow (their investment chairman) spent time with the pursuer to increase her confidence about investing.

[83] During cross-examination, Mr Brown said that clients take time to become comfortable around investment decisions. The pursuer was not comfortable at the start of their relationship in 2018. She became more comfortable over time. He said that they "chipped away". They heard both parties' points of view. They saw no cracks in the parties' relationship. Differences of opinions are not unusual for clients. At some point, he did realise that the parties were not in a good place.

[84] I pause to comment on Mr Brown's credibility and reliability given adverse comments made by senior counsel for the pursuer. His evidence is criticised as vague and non-specific and that he appeared not to have read or understood aspects of his affidavit. It is fair to comment that Mr Brown had almost no recollection of specific decisions taken by the parties. He could speak to their relationship and the focus of IHT planning and gifting in Begley Brown's advice to the parties. He was candid that he could not recall past events. As I understand it there is no challenge to his credibility. His oral testimony in isolation could not be relied upon but that is of less concern where there is extensive, contemporaneous email correspondence recording what had been discussed at the annual

reviews and advice given. Each of the parties rely upon aspects of that correspondence in support of their respective submissions.

[85] Stuart Clark is a chartered accountant and managing director of Russell & Russell who are the company accountants for DRSW Limited. He spoke to the company's business operations. Its annual running costs are over £400,000 per annum. The main costs are warehousing and bank interest. The company uses the bank loan to finance ongoing running costs. It has had to increase its borrowing to meet ongoing costs. The loan is currently £4.545 million. The directors will sometimes take cash out of the business by becoming overdrawn on their loan accounts. The defender took money out as a director's loan to develop the Strangford property. He took out more than was declared in dividends. The thinking was that he would sell the company in the future and the amount borrowed would be offset against the sale price. It was a tax efficient way to withdraw money. As at 31 March 2025, the company had distributable reserves of £844,833. Without further sales or swaps, the reserves would be exhausted within 2 years based on the costs within the 2025 accounts.

[86] Under cross-examination, Mr Clark agreed that the accounts to year end 31 March 2024 and year end 31 March 2025 were prepared on a going concern basis. The directors certified that the company had adequate resources and support to continue to operate for the foreseeable future (that is 12 months from the date of signing). There was no indication that the bank would withdraw funding. The accounts were not prepared on a break-up basis. Total dividends of £160,000 were declared in the year to end March 2024. Total pension contributions of £120,000 were made for the directors to year ends 2024 and 2025. Asked whether anything prevented a paper dividend being declared to reduce the

defender's director's loan account, Mr Clark responded that personal tax would be payable; and that the bank may want to see reserves. It was a commercial decision.

[87] The defender had met certain Alumni payments and built up a director's loan due to him of at least £71,536. DRSW Limited has provided credit to Alumni in terms of an unpaid invoice of £102,669. Mr Clark's evidence was that the defender thought Alumni was a good opportunity. He had funds and so put the money in.

[88] The admissibility of part of Mr Clark's affidavit evidence was objected to as being opinion evidence for which he is not qualified. The evidence related to current and historical market conditions within the Scotch whisky industry. Mr Clark is a witness to fact. The defender's senior counsel accepted that he was not a skilled witness. Otherwise, parts of the affidavit objected to speculated upon the potential attitude of Virgin Money in relation to continued lending while at the same time acknowledging that the witness has had no involvement in the bank's lending terms. I sustain the objection.

[89] James Ross is the parties' son. He swore an affidavit on 2 March 2026. Prior to swearing the affidavit, the defender told him that he had been accused of financial collusion by the pursuer in her affidavit. He was asked if he would like to submit an affidavit to defend himself and his wife. Mr Ross asked the defender to see the pursuer's affidavit because he was so horrified that they had been accused of such deception. He wanted to see it for himself. He also saw the defender's affidavit. He did not ask to see the defender's affidavit. Both affidavits were provided by the defender. Mr Ross adopted his affidavit. Specifically asked about the pursuer's evidence that she worried that he might have set funds aside to purchase a property for the defender's use after divorce, he responded that the pursuer need not worry because it was not true.

[90] Mr Ross also spoke to the circumstances of the parties' separation after a number of incidents while his family visited the parties in July 2024. He concluded that he could no longer tolerate the pursuer's emotionally abusive behaviour. The defender told him that he had decided to separate. He described it as farcical for the pursuer to imply that there had been a grand plan. Currently, Mr Ross has no relationship with the pursuer.

[91] Mr Ross turned professional as a golfer in 2014. His parents were his main sponsor and they became his sole sponsor. They supported him as his parents. There was no formal arrangement or agreement. Both were supportive of his career. They gifted him £1 million into a Transact account to avoid IHT. He described the gift as incredibly generous. On the back of the gift, he was able to put a down payment on a house in 2018. He did not buy the house outright. The money was placed into an investment account as a nest egg for the future and security. He was advised to avoid dipping into the investment. The defender sent money to cover their lifestyle. The pursuer was more cautious. She was more hesitant but did not put up a fight. When Mr Ross and his wife needed cars, a fairly sizeable amount was sent through. There were other sums sent at other times. In 2019 Mr Ross undertook a lot of travel and had a lot of expenses. They had their wedding. The money was family money. It was all for one and one for all. The £275,000 was specifically to pay off the mortgage. The pursuer tried to paint a picture it was her money and not the defender's money. His parents were excited to pay off his mortgage. There is no agreement with the defender about any of the money. It is appalling to suggest otherwise. Chris Brown of Begley Brown advised large gifts to avoid IHT.

[92] Mr Ross has a 10% shareholding in Alumni. He and his wife have knowledge of the collegiate world in the US. He has had a slightly more active role in Alumni in the last 6 months but is focused on golf. Alumni is his wife's job.

[93] The pursuer submits that Mr Ross was a wholly unsatisfactory witness on whose evidence the court cannot rely. His affidavit evidence was obtained after he had sight of the parties' affidavit. His oral evidence was submitted to be evasive and vague. He was unable to give any evidence as to his financial position. Although the witness appeared disobliging in the way he gave evidence, some allowance has to be made for his expressed desire not to become involved in proceedings. Such a desire proved to be unrealistic given the significant sums gifted and their centrality to proceedings. I assess his evidence with caution given the sharing of affidavits but am satisfied that he is not holding funds on the defender's behalf. I accept his evidence in that regard.

[94] David Bremner is divisional director for Canaccord Wealth. He advises on wealth management and pensions. He was instructed to provide a full analysis of the defender's financial profile together with an assessment of the income and funds available to him in the event of a pension sharing order of £500,000 in the pursuer's favour. His report is 7/127. Mr Bremner's evidence was that he could not find fault with the facts presented by Matt Smith. A pension share provides a monetary resource which, although subject to market movements, can produce a reliable income throughout life if managed appropriately. It remains a transferrable and income generating asset. Income can be flexible to suit an individual's financial situation. Any pension income can be structured to stay below various tax triggers such as the higher rate of tax.

[95] Restricting comment to the defender's personal portfolios (so excluding his shareholding in DRSW Limited), the drawing down on the available tax-free cash sum would have been a logical step to realise liquidity. The defender holds ISA assets which can be realised to cash without tax consequences. A pension share of £500,000 will materially affect the defender's income prospects. With a flexible drawdown pension plan, the

defender can effectively take out whatever he wishes from his pension, less tax. Applying annuity rates, each £100,000 removed from the pension pot equates to a reduction of £4,751.52 per annum or £5,489 per annum if an annuity is purchased after age 65. A pension share represents one of the few substantial and transferrable assets available to meet the financial claims of the pursuer. The defender has limited liquidity. A pension share, potentially coupled with a portion of ISA holdings, appears to represent a balanced means of addressing liquidity challenges and ensuring long-term income provision.

[96] Mr Bremner could not advise on the defender's shareholding in a whisky related company. He could not quantify such an asset and did not know how it might create income. Under cross-examination, it was suggested to him that he will have input share values into financial models in other cases. He stood firm that he could not see the asset as realisable in the short term. His model assumed no value in DRSW Limited and Alumni. He excluded heritable property. Matt Smith also proceeded on the basis that the pursuer would require somewhere to live.

[97] The defender was projected to run out of funds by age 81. Assuming a £500,000 pension share, he was projected to run out of funds at age 76. He will require to make changes to expenditure and how assets are managed.

[98] Paul Barnes is a retired accountant and owner of Whisky Butlers which he described as a hobby business. He is the husband of Christine Barnes, the defender's co-director and shareholder in DRSW Limited. He has known the defender for around 20 years. Mr Barnes was asked by the defender to value certain bottles shown in photographs provided by the defender. The photographs are not produced to the court. While the pursuer takes issue with his independence, his valuation of those bottles exhibited at £17,575 is not challenged. However, it is contended that the court cannot be satisfied that the selective valuation, at the

defender's hand, represents the value of his whisky collection. The pursuer's unchallenged evidence is that she photographed over 60 bottles in the parties' Edinburgh home (6/59). The defender's evidence is that the list provided to Mr Barnes erroneously included some bottles which were gifted to him and so the value is over-stated.

Stock valuation of DRSW Limited

David Robertson

[99] David Robertson was instructed on behalf of the pursuer to carry out a desktop valuation of all DRSW Limited maturing whisky spirit held in cask at June 2024. His report is dated 31 December 2025 (6/107). He was instructed to provide an additional opinion on changes to the stock holding since June 2024 and his supplementary report is dated 20 February 2026 (6/124). He also produced a reconciliation spreadsheet of Original Litres of Alcohol (OLA) against Regauged Litres of Alcohol (RLA) in respect of DRSW Limited's stock holding at 30 June 2024 (6/131).

[100] Mr Robertson co-founded and is a consultant with Robertson Whisky Consultancy Ltd. He has more than 30 years' operational, marketing and commercial experience in the whisky industry as a master distiller and rare whisky director; and co-founded a bottle/cask brokerage (Rare Whisky 101). Over the last 10 to 15 years his experience has included spirit supply and valuation: matching sellers with buyers; adapting to dynamic sector changes by monitoring the sector; analysing auction and cask broker markets; stock identification; and value realisation. He had a lead role in setting up a private equity whisky fund in Hong Kong in 2014/2015 in which valuation was critical to stock acquisition and disposal.

Valuation

[101] The stocklist, dated June 2024, covers 3,815 casks across 38 variations of mixed spirit (distillery/age/wood type). The portfolio of casks is spread across 21 distilleries and 19 vintages. Mr Robertson understood that the purpose of his report was to provide a fair market valuation on the basis of a willing buyer and willing seller at the relevant date. He assumed a short-term liquidation (less than 2 years) of the full stock portfolio.

[102] His evidence was that, in general, casks of whisky increase in value over time as, all other things being equal, older whisky is more valuable than younger whisky. However, the passage of time is no absolute guarantee of increase in value. Based on his comparison of the DRSW Limited casks with four valuation benchmarks, he gave an indicative short-term liquidation valuation of £10,277,112. That was based on 2024 datasets and assumed all volumes provided by DRSW Limited were accurate and all spirit was of good quality. The short-term disposal valuation assumed that DRSW Limited could sell, within a 2-year period, up to 10 casks of each category (3-year-old and older) through cask brokers with the balance being sold through inter-trade sales at Scotch Whisky Industry Review 2024 (SWIR24) prices. For comparison, a long-term liquidation timescale would result in an indicative valuation range of £11 million to £12.5 million but would require significant time and financial investment to create and build a new Independent Bottler (IB) brand as well as establishing routes to market. Weighing up the potential additional longer-term return against the time and cost uncertainty, a longer-term disposal strategy did not seem sufficiently attractive. Therefore, a short-term valuation was indicated.

Approach

[103] Mr Robertson developed a model to compare different benchmarks of price points for the range of casks and allocate what he termed the best fit. The model considered four categories of benchmark data points which would result in a range of £/Original Litres of Pure Alcohol (OLPA) valuations. He favoured a short-term valuation by applying the most appropriate method for the various cask types and age of spirit. The four benchmarks selected for comparison to the DRSW Limited stock were: (i) SWIR24; (ii) cask broker pricelists; (iii) bottle auction prices; and (iv) retail prices. He applied industry standard loss factors across all stocks to compare all items on a consistent basis, that is £s per OLPA. Such an approach is necessary where the specific data and/or benchmark data contains a mix of Regauged Litres of Alcohol (RLA) and Original Litres of Alcohol (OLA). A summary of the regauged stock, adjusted back to OLPA, is included in the Appendices.

[104] Mr Robertson discounted the use of bottle auction prices and retail prices as benchmarks for valuation. Each was deemed inappropriate for the present valuation.

Scotch Whisky Industry Review 2024 (SWIR24)

[105] The SWIR is in its 48th Edition (2025 published in late 2025 or early 2026) and has a large historical dataset which is updated annually. The review gathers data from the industry for cased goods, typical selling prices, production levels as well as broking values in bond (excluding wood) and wood costs. The data is compiled and updated by Ian MacLeod Distillers Ltd and supplied to SWIR for publication. Using the data from SWIR24 (47th edition) Mr Robertson tracked the OLA values for malt and grain whisky over the ages relevant to DRSW Limited's stock. As the valuation method used industry trade prices it is likely to under-report compared to the cask broker and IB market values where

buyers may pay a premium to access stock. However, it is particularly useful in valuing young spirit as well as very high volumes of a single spirit where volume outweighs IB demand. As the SWIR24 £/OLPA is for liquid only, the calculation was adjusted to include an allowance for the wooden casks in which the liquid is stored.

Cask broker pricelists

[106] Mr Robertson used data from Dalkeith Brokerage and Keeble Casks (both UK based, selling to private clients and IBs) to extract and create a single dataset from which he could draw comparative and contemporary pricing analysis. The selected brokers are said to be highly active in the cask brokerage sector and publish extensive lists of casks for sale monthly. Both are reputable brokers who have carved out a position in the market to assist brand owners liquidate non-core stock and find willing buyers (mainly IBs and private clients). Using this consolidated cask broker dataset, he identified a wide range of distillery makes, ages/vintages and cask types and sought to find comparable matches to all DRSW Limited casks. The valuation has been reduced by 10% for cask broker fees.

Findings

[107] The total short-term valuation is based on a combination of the cask broker (up to a maximum of ten casks per category over 3 years of age) and SWIR24 (under 3 years of age plus the balance of older casks) valuation methods. To expose more than ten casks for sale through the cask broker market would significantly reduce the price achievable with supply exceeding demand from private buyers and/or IBs. Casks from four named distilleries have been classified as above average value due to their reputation and matched to distilleries of similar standing. The valuation can only be indicative as it was not possible to find exact

matches from the benchmark data available. Further, an accurate valuation would require a quality assessment of the spirit held in each cask. It has been assumed that all spirit is of good quality. The benchmarks are based on equivalent OLA, adjusted for any additional costs required to arrive at the comparable selling price. Typical maturation losses have been assumed.

[108] Mr Robertson provided a supplementary report (6/124) on changes to the stock holding since June 2024 and on the revised June 2024 valuation by Dr Alan Wright. Mr Robertson had queried the stated OLAs for a range of stock items, based on his knowledge of cask volumes and industry standards. DRSW Limited confirmed that the highlighted stock items were recorded at RLA, rather than OLA, and provided the regauge date. Mr Robertson's valuation was based on the corrected RLAs.

[109] Mr Robertson observed that the value for which grain spirit was disposed of between 30 September 2024 and 31 December 2024 (£1,758,743) compared favourably to his valuation at 30 June 2024 (£1,637,540) which suggested that his valuation is not overstated. The increase of 7.4% was reasonable given the passage of 3 to 6 months.

[110] Under cross-examination, Mr Robertson conceded that if all stock were wood inclusive, he would take a different view on cask value and would leave it out of account. He acknowledged that whereas his use of SWIR required him to extrapolate for whisky older than 12 years, Dr Wright's matrices provided historical data. He accepted that by employing a hybrid valuation it produced a higher value than SWIR alone. He maintained that he had produced a fair market valuation for the stock. He disagreed that the object of his hybrid model was to augment the value of stock.

[111] When re-examined, Mr Robertson confirmed that SWIR is a matrix and that its data is wood exclusive. Further, he confirmed that at the date of proof, whisky continues to be sold, including through cask brokers, inter-trade and to IBs

Dr Alan Wright

[112] Dr Alan Wright is the founder and a director of Regauge Spirits Consulting Limited. He acts as a technical consultant to the spirits industry. His role includes providing consultation and project management services; whisky brokering activities buying and selling from and to major distillers as well as small brand owners; providing whisky, spirit and cask valuation services to major UK banks, asset valuation companies and direct to distillers and cask owners. He has provided valuation services to Virgin Money since the first quarter of 2025. He has operational and spirit supply experience in the whisky and wider spirits industry over 30 years.

[113] Dr Wright was instructed on behalf of the defender to provide a valuation of the bulk whisky stocks held by DRSW Limited as at 30 June 2024. His report is dated 10 July 2025 (7/88). The basis of the valuation was the stock list provided by the defender.

[114] At the date of the report, DRSW Limited had a substantial holding of spirit with single malt making up 55% and the remainder being grain whisky. The stock file provided by the defender was separated into OLA and RLA. Where a cask had been regauged and knowing the date when it was returned to warehouse, the report calculated the additional time spent in warehouse. Using recognised maturation loss figures, it adjusted the cask volume to take account of additional evaporation losses. The value of oak casks was not included on the basis that there was insufficient detail on cask type to apply a valuation.

[115] Dr Wright applied brokerage rates which have been developed over a number of years. The rates are formulated in matrices which list distillation years from 1962 to current date and categorise spirit into three categories: grain, mainland malt and island/heavily peated malt. A price per OLA is given for each year and category. Dr Wright's methodology was sourced from Dr Alan Rutherford and he has access to Dr Rutherford's historical matrices. The matrices are updated on a quarterly basis to reflect changes in market forces and trading conditions. Dr Wright sources data by speaking to what he termed four key distillers and from online trading platforms. He uses multiple sources to collate a breadth of information about the market. For his report, he applied the rates for quarter 2 of 2024. These are at Appendix 1 of the report.

[116] Applying the brokerage rates to the total whisky stocks at 30 June 2024 gave a total value of £7,984,117 against the listed book value/bank value of £9,146,497. The OLA and RLA values used did not differentiate between distilleries of origin although it is well known that some individual distilleries will always command a premium over others. All brokerage values are defined as the prices that could reasonably be obtained for the stocks in a managed disposal over a period of approximately 6 to 12 months.

[117] Dr Wright was instructed to provide an assessment of the realistic value if the stock were to be liquidated as a complete entity in the "current" marketplace. At the date of his report (10 July 2025), he envisioned that a level of discounting would be required to sell the stock in one sale rather being split up with desirable makes being cherry picked. Discounts were thus applied based on specific distillery makes. The report recognised that Islay whiskies were still highly desirable and likely to achieve full value whereas other distillates such as the aged grain and some of the lower-class malts would be a harder sell with demand for those low at that date and bulk sale requiring heavy discounting. Applying

such an approach resulted in a discounted value as at 30 June 2024 of £5,875 million. Accepting that any sale would in fact take place in 2025 then applying the same discounts would suggest a "current day" sale value of £6,069 million.

[118] Dr Wright concluded that it would be prudent to allow for some "trade out costs", that is the cost to market, sell, and dispose of the casks. Those would include ongoing cask warehousing storage costs during the sale period and commission for a broker to act on DRSW Limited's behalf to market and sell the stock. One month of storage and 3% commission on sale of the spirit would result in "trade out costs" of *circa* £190,000 and thus the proceeds generated by the sale of all stock within a short period was likely to be £5,878 million at "current" values.

[119] While DRSW Limited had created an admirable portfolio of stock, the "current" bulk whisky market remained under pressure due to global economic uncertainties, declining demand, and softening export performance, which in turn was reflected in the prices likely to be achieved in trade. The industry was undergoing a period of significant adjustment following years of robust growth and exceptional market activity. In general, maturing stock valuations had plateaued or even reduced, with some softness in the market for newmake spirit pulling young spirit prices down, as companies sold bulk spirits to raise cash instead of maturing them for bottling. While the value of single malt Scotch whisky peaked in 2022, it had since dropped by over 30%, and its future growth remained uncertain. This unfortunately meant that the "current market" was weak and that it was not a good time to profit from selling off a large inventory of maturing stock.

[120] Dr Wright produced a revised valuation dated 18 December 2025 to account for casks which had been regauged (7/104) after a more detailed stock file for DRSW Limited was produced. He described the updated information as having a marked impact on the

inventory valuation. The revised valuation is at 15 July 2024 (relevant date) based on his brokerage prices of 30 June 2024. He also provided a valuation of the "current" stock list as at 30 September 2025 and applied the quarter 3 2025 brokerage prices. His instruction was to provide a valuation of the stock on the basis of a willing buyer and willing seller and bearing in mind prevailing market conditions. He clarified in cross-examination that the instruction applied to both the relevant date and "current" valuation and that prevailing market conditions were at September 2025. He adopted the same approach as in his earlier report to discounting.

[121] Applying the brokerage rates to the total stocks at 30 June 2024 gave a total value of £8,626,478 at the relevant date against the listed bank value of £9,146,497. Applying the brokerage rates to the total stocks at 30 September 2025 gave a total value of £8,906,178 against the listed bank value of £9,053,296. The cask inventory profile had changed since the relevant date with a marked reduction in grain whiskies and an increase in malt. No premia and no discounts were applied at either date.

[122] Brokerage values are usually defined as the prices at a given point in time that could reasonably be obtained for the stocks in a managed disposal over a period of approximately 12 months. As at June 2024, managed disposal would be over a period of 6 to 12 months. Using the brokerage values generally gives a realistic value if the stock were to be liquidated as a complete entity over these timescales. However, Dr Wright noted that the "current" depressed market conditions may have an impact on this. He observed that the Scotch whisky industry was going through a period of great change with a downturn at a rate not seen since the 1980s. Intelligence from the major whisky producers indicated that recovery may be some way off with recovery in demand and pricing not likely until 2027 at the earliest. Dr Wright confirmed that to be his view at the date of proof. Until then, it is

difficult to predict where pricing will go and it is quite possible that values may continue to drift. In this case, and in light of the inventory held, it is likely it could take up to 36 months to recover the full undiscounted value indicated in his report. It is highly likely that brokerage values will continue to decline over 2026. His valuation was therefore not a prediction of future sale prices.

[123] Dr Wright expanded that if the stock required to be sold immediately (if the business were liquidated) then discounting would certainly be required because the stock would need to be sold in a bulk transaction, rather than being split up where desirable makes would likely be cherry picked leaving the less desirable stock behind. A number of factors operated: the marketplace; brand awareness; and volume traded. Discounts were applied based on specific distillery makes. Applying this approach to the stock held at the relevant date resulted in a discounted value of £6.487 million (Appendix 3), while applying the same approach to the stock list from 30 September 2025 resulted in a discounted value of £7.119 million (Appendix 5). Accepting that any potential sale would in fact take place in 2026, then the discounted value would have moved again by then and all whisky stock would be older. Again, Dr Wright made provision for trade out costs. Based on the "current" 2025 stock list, one month of storage and 3% commission on sale of the spirit would result in trade out costs of *circa* £220,000 and thus the proceeds generated by the sale of all stock within a short time period (one month) was likely to be £6.899 million at "current" values (Appendix 5). For comparison, the trade out costs over a 36-month sale period would be £496,000.

[124] Dr Wright updated his industry forecast. The "current" bulk whisky market remained under pressure due to global economic uncertainties, declining demand, and poor export performance, which in turn was reflected in the prices likely to be achieved in trade.

The industry was self-correcting after a period of overproduction, with 2025 seeing production cuts of around 21%, which was far sharper than in the last big downturn in the 1980s. While volume demand in the whisky market had been falling over past months, it appeared that this trend had now eased. However, finding value continued to prove problematic and it was quite possible that pricing would continue to slide. Single malt exports had fallen nearly 40% from their 2022 peak, resetting volumes to 2016 levels. There was a risk of distillers overcorrecting production levels in the medium term, resulting in surplus over aged spirit being used for younger products, which in turn could lead to spirit shortages from specific years in the future. Were this to come to fruition then prices would be likely to increase again due to tightening of availability. This would not show through for many years. Global recovery of Scotch whisky is expected to be slow, with stabilisation not envisioned before the end of 2026, followed by modest growth, and a return to 2019 levels sometime after. This industry self-correction should set the stage for a stronger, more balanced whisky industry in the long term.

[125] Number 7/215 of process is the quarterly valuation of stock of DRSW Limited at 31 March 2026. The valuation was prepared by Christine Barnes applying the Virgin Money matrix for quarter 1 of 2026. It shows a stock value of £9,965,536. Asked about the apparent substantial increase in value, Dr Wright explained that the distillates were a year older and had greater value. A further factor related to changes in the marketplace whereby there had been a slight improvement in demand for 3- and 4-year-old spirits. Asked whether the value was indicative of growth or optimism in the market, Dr Wright responded that sentiment in the industry remains cautious.

[126] Dr Wright was asked about David Robertson's valuation on behalf of the pursuer. The data set used by SWIR is OLA; is a single data point as opposed to his use of multiple

data points; requires extrapolation beyond 12-year-old spirit. He acknowledged that his matrix also extrapolated. However, his approach allowed for greater sensitivity to variation because it had many more data points. SWIR is done in retrospect and is not a live snapshot. Cask brokerage is an acceptable means to sell stock but it is difficult to move large volumes of stock. The brokers selected by Mr Robertson are English based, target the investment market and sell at inflated prices generally to high-net-worth individuals. Brokerage companies have attracted recent bad press coverage but Dr Wright described the selected brokers as respectable and of long standing. In his view, the cash brokerage model did not fit with the operation of DRSW Limited. DRSW Limited buys and sells casks within the whisky industry between distillers and brand owners. Brokerages are specialist companies which buy up assorted surplus casks and sell in the private market. DRSW Limited does not operate in that market. While it may be an option to sell ten casks (as envisioned by David Robertson to avoid saturation), it would be unrealistic to sell a whole inventory and extremely ambitious as a blanket approach to all stock above 3 years of age. There would be an opportunity for premium brands such as Islay malts but no guarantee. Brokers target casks which are rare, coveted and of higher value. Their market is currently insecure. Further, Mr Robertson has back calculated to OLA as that is the only data set in SWIR. While acceptable, such an approach has a tendency to overvalue. Dr Wright's evidence was that it is standard in the whisky industry to include the cask in the value.

[127] Dr Wright's evidence was that as DRSW Limited is a third-party supplier there is likely to be a time lag before any general industry recovery reaches it. Further, any green shoots and recovery will not necessarily be across all age ranges. That underpins why valuation is not a straight line. Supply peaks for given ages and brands.

[128] During cross-examination, Dr Wright was taken to the Market Update Overview produced with his matrix for quarter 1 of 2025 (6/121(12)). He stated therein that the long-term outlook for the industry remains positive. He commented that whisky is not a short-term gain product and that the whisky market is cyclical. His view was based on an expectation of green shoots in 2025 but which did not come to fruition. In his Market Update Overview for quarter 2 of 2025 (6/103(4)), he stated that 2025 was expected to continue to be a challenging year for the whisky industry. While the long-term fundamentals remained intact, the short-term outlook was shaped by margin pressures, cautious investor sentiment, reduced capital expansion, and flat or declining sales across key markets. A return to growth would depend on global economic recovery, renewed consumer demand and resolution of trade barriers. Until then, pricing was likely to remain stable or under pressure, with strategic resilience required across the value chain to weather current headwinds and position for future recovery. He concluded that whisky should still increase in value given enough time.

[129] Dr Wright confirmed his instruction was to provide a valuation based on a hypothetical willing buyer/willing seller if the whole inventory were to be disposed of. He accepted that a seller will try to maximise value; a buyer will try to minimise price; and a buyer will be able to do whatever he wants with the stock. The only assumption applied was that the whole inventory would be sold. Accordingly, he introduced a discount because it was a forced sale. Dr Wright became aware after he produced his report dated 10 July 2025 that Iain Hamilton had been instructed to prepare a report. In producing his report, Dr Wright did not apply a premium above matrix level to any of the distillates. Rather, he did not discount (0% discount) any which stood out. He accepted that trade out costs relate to the company which owns the stock and not to the stock value.

[130] Dr Wright accepted that there can be tolerable differences in value between matrices. He agreed that SWIR is a perfectly reputable publication used within the industry. He had not been asked to comment on his valuation to 30 June 2024 differing considerably from Iain Hamilton's valuation, that is by more than £1.61 million. In producing his report 7/104, Dr Wright could not explain why there was a reduction in value from his report 7/88 for four specified whiskies. Dr Wright stated that his valuation was purely based on the matrix. Any actual transaction was not considered relevant. Taken to Iain Hamilton's matrix for whisky values at 30 June 2024, Dr Wright agreed that prime and very much scarcer Islay malts would command a much higher premium in a buoyant market. That comment was appropriate in June 2024. Staoisha would possibly have commanded a premium in June 2024. Dr Wright rejected that his valuation understated market value. It was realistic for the inventory as a whole.

[131] In re-examination, Dr Wright said that the outlook in June 2024 was cautious but not as pessimistic as now. 2024 was when the market went into decline. It was hoped that would be short lived. In the event, 2025 was a terrible year. He used the term "liquidating" to mean the sale of stock for cash. Dr Wright's report 7/88 specified the value of the stock as at 30 June 2024 and his conclusion referred to the discounted value as at 30 June 2024. He applied the matrices for 30 June 2024. A discount would be required to sell the stock in one entity as at June 2024. He remained of the view that a discount was required in 2024. Were he to go back in time and inhabit July 2024, the value would be as determined by the application of a discount and as stated in his report.

Valuation of DRSW Limited

Peter Graham

[132] Peter Graham is a chartered accountant. He was instructed on behalf of the pursuer to value DRSW Limited and the defender's shareholding therein at the relevant date. His initial report is dated 23 May 2025 (6/14). Mr Graham noted that the valuation of whisky stock is outwith his area of expertise and it will be for the court to decide the market value of the stock at the relevant date.

Background

[133] At the relevant date the defender held 51 A Ordinary shares (51%) and Christine Barnes held 49 B Ordinary shares (49%). Turnover had been inconsistent in each of the 4 years ended 31 March 2024 ranging from £2,425,299 for year ended 31 March 2022 to £nil for year ended 31 March 2024 and £nil for the three-month period ended 30 June 2024. The company was in a net asset position at each of the 3 years ended 31 March 2024 and the period ended 30 June 2024. Its largest asset is its whisky stock. This stock is included within the accounts at the lower of cost and net realisable value as is required by accounting standards. As at year ended 31 March 2024 and at 30 June 2024, £460,919 was due by the defender on his director's loan account.

Valuation

[134] The objective of a share valuation exercise is to arrive at a figure at which the relevant interest in a company could be sold by a willing seller to a willing buyer. The appropriate valuation method considers the nature and characteristics of the business or assets being valued. A net assets approach is the most appropriate valuation method in the

present case as the company did not have turnover in the year ended 31 March 2024 or the period ended 30 June 2024, coupled with the fact that whisky has a market value that is considerably more than the value it is held at in the accounts. An asset valuation can be on a going concern basis (assuming that the company could realise assets at full value and pay creditors over a reasonable timescale) or on a breakup (forced sale) basis. Unless there is any reason to believe at the valuation date that the business will not continue to trade then the going concern basis should be used. In the accounts for the year ended 31 March 2024 (6/21/29), it was noted that the directors believed that the company had adequate resources and support to continue to operate for the foreseeable future. That applied for a period of 12 months from the date of signing the financial statements on 13 December 2024. As such, there was no reason to think that the business would not continue to trade.

[135] The starting point for an asset valuation should be the net assets as disclosed in the financial statements at a financial year end prior to or around the valuation date. The net assets would then require to be adjusted for: estimated change in net assets (if any) in the period from the date of the accounts to the valuation date; and known differences between the book value of assets and liabilities and their market values. There requires to be a revaluation to market value.

[136] In accordance with Article 28.2 of the Articles of Association, the defender's shareholding should be valued on a pro-rata basis with the first £274,271 (minimum exit value) of the valuation allocated solely to him.

[137] In an email dated 2 May 2025 (6/27), Mr Graham was provided with the total stock valuations prepared for Clydesdale Bank by Iain Hamilton. These valued the stock as follows:

- as at 31 March 2023 £7,002,000;

- as at 31 March 2024 £8,607,000; and
- as at 30 June 2024 £9,146,497.

Stock was included in the trial balance as at 30 June 2024 at £2,286,258. Therefore, there is an uplift in the value of stock as at 30 June 2024 of £6,860,239. In Mr Graham's opinion this uplift should be adjusted to show deferred tax. Tax would be paid on sale of the stock. He adjusted for 25% deferred tax of £1,715,060 on the uplift. There was a final adjustment of £3,656 for depreciation.

[138] Assuming no material changes between 30 June 2024 and the relevant date, Mr Graham considered DRSW Limited to have a net assets value of £5,360,144. The minimum exit value of £274,271 should be deducted from the relevant date valuation and the remaining £5,085,873 should be allocated on a pro-rata basis. The defender would be entitled to 51% being £2,593,795 plus £274,271. Accordingly, Mr Graham considered the defender's 51 A Ordinary shares in DRSW Limited to be worth £2,868,066.

[139] Mr Graham was provided with a market value of stock at 30 June 2024 in the sum of £10,680,171. He produced a report dated 26 May 2025 (6/30) in terms of which he valued the defender's 51 A Ordinary shares in DRSW Limited to be worth £3,454,696 at the relevant date based on a market value of the stock of £10,680,171.

[140] He was provided with a valuation report prepared by Alan Robb CA on the defender's behalf dated 20 May 2025 (7/34) and discussed that report with Mr Robb. Mr Robb valued the shareholding using the Virgin Money value of stock (that is £9,146,497). The experts agreed on deduction of the value of casks from the stock valuation; and on deduction of tax losses from the uplift in stock value before calculating the deferred tax valuation. Mr Graham disagreed with Mr Robb's approach of discounting the stock value by 37.5% to reflect the value of stock if sold to a single purchaser. Mr Robb relied upon

discussions with Iain Hamilton to the effect that a sale to a single buyer would eliminate the targeted customer premium. It is Mr Graham's evidence that a single buyer would acquire shares in the company and the stock. A hypothetical willing buyer can choose what to do with the stock. Considering the agreed adjustments, Mr Graham prepared an addendum to his earlier reports which is dated 1 July 2025 (6/68). He revised his valuation of the shareholding based on a stock value of £9,146,497 to £2,920,304 and based on a stock value of £10,680,171 to £3,506,935.

[141] Mr Graham was provided with a copy of the DRSW Limited stock valuation prepared by David Robertson. That report valued the whisky stock at £10,277,112. By letter dated 23 December 2025 (6/108), Mr Graham valued the defender's 51 A Ordinary shares in DRSW Limited to be worth £3,352,764 at the relevant date based on a value of the stock of £10,277,112.

[142] Mr Graham provided a further addendum to his reports dated 27 February 2026 (6/129). This was produced on an instruction to use a stock value of £8,626,478 as determined by Dr Alan Wright and on consideration of a schedule prepared by Alan Robb CA (7/207). Mr Graham disagreed with the inclusion of storage and trade out costs as a buyer of the defender's shares would gain access to the stock but would not be obliged to sell the stock. A buyer may choose to retain the stock. Trade out costs should not be included. He noted that the agreed deduction of the book value of casks was not applied by Mr Robb. Mr Graham valued the defender's 51 A Ordinary shares in DRSW Limited to be worth £2,721,397 at the relevant date based on a value of the stock of £8,626,478.

Alan Robb

[143] Alan Robb is a chartered accountant. He was instructed on behalf of the defender to value the defender's shares in DRSW Limited at the relevant date. His initial report is dated 20 May 2025 (7/34). In common with Peter Graham, Mr Robb's valuation is on a net asset basis. The shares have been valued on a hypothetical sale of shares between a willing buyer and a willing seller. The buyer is purchasing the shares in the company and therefore the entire stock on hand.

[144] The net assets in the management accounts to 30 June 2024 were used and the whisky stock revalued at 30 June 2024. Mr Robb used the stock valuation at 30 June 2024 prepared by Iain Hamilton for Virgin Money. The value of the stock referred to as the bank valuation is £9,146,497. The valuation report also included a market value of £10,680,171. Mr Hamilton commented that this is the value which may be achieved if the stock were sold on an *ad hoc* basis to highly targeted customers over a period of time. This uplift in value is referred to as the targeted customer premium. Mr Hamilton was asked to comment on the stock value should the company be sold and the stock effectively sold to a single purchaser who had to take all the mixed stock. He responded that such a sale would eliminate the targeted customer premium over the bank value and instead there would be a substantial pricing discount to the bank value which could be between 25% and 50%. Due to the reduced demand for whisky and the mix of whisky stock held by the company, Mr Hamilton could not provide a specific discount, and taking a midpoint of 37.5% was a suggested compromise. Mr Robb applied a discount of 37.5% to the bank valuation of £9,146,497. The discounted stock value is therefore £5,716,561.

[145] The casks in which the whisky is stored have been included in fixed assets as a separate company asset at book value of £34,360. The stock valuation includes the casks and

therefore the book value of £34,360 should be deducted from the uplift in value to avoid double counting.

[146] Mr Robb was subsequently provided with a stock valuation report dated 10 July 2025 prepared by Dr Wright. He recalculated the value of the company, and the shares held by the defender (7/87), applying the stock values in Dr Wright's report. Dr Wright valued the stock at £7,984,117, compared to Mr Hamilton's bank value of £9,146,497. Dr Wright then applied discounts to apply on a sale of the entire stock. The discounted value of the entire stock is £5,875,081. This equates to an average discount of 26.42%. The detailed stock listing applies different discounts to each category of stock, the range of discounts is between zero and 39%. In Mr Robb's earlier report, Mr Hamilton's total stock value was discounted by 37.5%, rather than by applying specific discounts to each stock holding. The revised value of the company is £3,009,475 and the revised value of the 51 A shares held by the defender is £1,669,225. The company and share values were calculated on the same basis as in his earlier report and the only revisions were to the stock value and the corporation tax payable on the uplift in value.

[147] A revised stock valuation report dated 18 December 2025 was prepared by Dr Wright with Appendices detailing revised values of the stock held at the relevant date and 30 September 2025. Mr Robb was instructed to recalculate the value of the company, applying those stock values at the relevant and "current date". His report is dated 5 January 2026 (7/106). Dr Wright valued the stock on hand at the relevant date at £8,626,478, based on prices which could reasonably be achieved in a managed sale of the stock over a 36-month period. While brokerage prices used to value stock for bank lending purposes normally assumed a managed disposal of stock over a 12-month period, Dr Wright reported that in the "current" market conditions it could take up to 36 months to achieve the values stated in

his report. Dr Wright applied valuation discounts which would apply on a sale of the entire stock in a single bulk transaction. The discounted value of the entire stock is £6,486,944. Dr Wright calculated the "trade out" costs which would be incurred on the sale of stock which included sales commission at 3% and storage costs. The trade out costs were £220,000 for a one-month disposal period and £496,000 for a 36 month disposal period. In Appendix 2, Mr Robb detailed the calculation of the value of the company and the defender's shares at the relevant date assuming an immediate disposal of stock over a one month period. He applied Dr Wright's discounted stock value of £6,486,944, and trade out costs of £220,000. The value of the defender's 51 A Ordinary shares, calculated on a discounted basis, is £1,832,255.

[148] During cross-examination, Mr Robb confirmed that he undertook a valuation on the basis of a willing buyer and willing seller. There was no assumption about either a specific seller or a specific buyer. It was put to him that in his later report, he valued the defender's interest on the basis that a buyer would liquidate the stock within one month. Mr Robb disagreed. A buyer would be interested in the stock value. The buyer could realise the stock immediately or retain it for a period of time. Dr Wright prepared his valuation on the assumption that it would be sold within 30 days. It was put to him that there was an assumption of a special buyer (one who would liquidate the stock). Mr Robb characterised the buyer as one who expected to realise the stock immediately and not as a special buyer. A buyer could keep the stock but he would then need to operate the company and adjust for the costs he might expect to incur before realising the stock. That resulted in a different value. Mr Robb agreed that the appropriate valuation was a net asset valuation on a going concern basis. Put to him that nothing suggested a break-up value was appropriate, he replied that it was difficult. The company's asset was its trading stock and stock is sold. The

purpose of a buyer is to acquire stock to sell. By 3 July 2025, Mr Robb and Peter Graham agreed the methodology to value the defender's shareholding. The only difference was valuation of whisky stock on which each relied. Mr Robb applied a discount which was suggested to him by Iain Hamilton. Later, Dr Wright suggested a discount. Mr Robb agreed that market conditions in September 2025 had no relevance to the relevant date.

[149] In his report dated 5 January 2026 (7/106) as a relevant date valuation, Mr Robb assumed an immediate disposal of stock over a one-month period. He did so as he reassessed how a purchaser would approach the value of stock. A purchaser would be interested in what he could sell the stock for in the short term. He would look at the immediately realisable value. Storage and trade out costs were included for the first time. A purchaser would take them into account because he is interested in net realisable value. In his January report, there was no deduction for casks as Dr Wright said his valuation did not include casks. If Dr Wright's evidence was that all valuations are cask inclusive, the deduction would be reinstated.

[150] When re-examined, Mr Robb stated that the concept of a discount made sense to him as a purchaser who acquires the shares, acquires the whole stock and his interest will be in the value of the whole stock and what it will realise.

Discussion

[151] Having regard to the evidence of the pursuer and of Christine Barnes, I am satisfied that the parties' marriage has broken down irretrievably as established by the parties' non-cohabitation for more than one year and the defender's consent to the granting of decree of divorce.

[152] The disputed issues are the valuation of the defender's shareholding in DRSW Limited; the parties' respective special circumstances arguments; whether the pursuer has been economically disadvantaged; the defender's resources; which party should retain the matrimonial home, failing which its sale; which party should retain the parties' holiday home; whether there should be a pension sharing order in favour of the pursuer; and periodical allowance. I address each below after assessing the parties' evidence.

Parties' evidence

[153] The pursuer gave evidence about the defender's behaviour during the marriage. Its relevance was to seek to establish a climate in which the pursuer felt marginalised in financial dealings and pressured to make monetary gifts to the parties' son. The pursuer spoke to emotionally abusive, dismissive and controlling behaviour. She spoke to physical abuse on occasions. The defender denied any abusive conduct. His evidence was that the pursuer was fully informed and involved in financial decisions; she was the recipient of generous gifts; and she could spend freely. The pursuer behaved increasingly unreasonably during the marriage. She alienated friends and family, ultimately alienating the parties' son and his wife.

[154] I have little difficulty in finding that the parties' marriage was unhappy and that the parties behaved poorly towards each other. The pursuer's evidence was lengthy and repetitive. She sought to present a narrative of control and manipulation by the defender. At points in her evidence, she was antagonistic. She unreasonably interpreted and took offence at communications with the parties' financial advisers. She felt undermined in her relationship with the parties' son and later his wife, becoming suspicious of interactions within the family. On occasions during the marriage, the pursuer had angry outbursts and

was hostile. The defender showed himself to be impatient and intolerant of any obstacle to the parties' financial planning. He communicated in a terse way which the pursuer may well have found dismissive. However, I am not satisfied that the defender was physically abusive of the pursuer. Given the evidence led, it is necessary to make these findings. However, I do acknowledge and make allowance for the distressing situation in which the pursuer now finds herself whereby she has no relationship with the parties' son and his family.

[155] While the defender gave his evidence in a more measured manner, he displayed fixed thinking, determination and lack of flexibility. He readily justified financial decisions after the separation which favoured him, the parties' son and Alumni but was unwilling to contemplate possibilities for financial provision for the pursuer. He was defensive of aspects of his conduct in the action: the error in the original stock listings provided to the whisky valuers; the provision of the parties' affidavits to the parties' son by him; and apparent delays in providing updated stock valuations. Such conduct inevitably reinforced the pursuer's suspicions.

[156] The parties' affidavits speak at length about how the pursuer came to reside in the Strangford home and the defender in the Edinburgh home, giving rise to extended cross-examination. Other than concluding that the circumstances were unedifying, this chapter of evidence assists little in the court's determination of financial provision.

Valuation of DRSW Limited shareholding

[157] The defender's shareholding in DRSW Limited is the most valuable asset. The principal dispute relates to the valuation of the whisky stock by each of David Robertson and Dr Alan Wright and whether a discount should be applied. There are subsidiary

arguments in respect of trade out costs and the treatment of the wooden casks. It is agreed that a market valuation of the defender's shareholding and of the whisky stock should be on the basis of a hypothetical willing buyer and hypothetical willing seller. Both forensic accountants agree that a net asset valuation is appropriate and that on a going concern basis. I return below to whether Alan Robb, the defender's accountant, departed from that approach in his last report and evidence.

[158] I have set out fully the methodology of each valuer of the whisky stock. Each valuer is suitably qualified to provide opinion evidence on the value of the stock. I observe that the valuation exercise became more protracted and complicated than necessary due to the defender initially providing a stock list which failed to record accurately those whiskies which had been regauged.

David Robertson

[159] Dealing firstly with David Robertson's methodology, the main criticisms by the defender are that:

(i) SWIR derives its data from a single source (Ian McLeod Distillers); is published annually relying upon data from the previous spring and autumn and so lacks sensitivity to the current marketplace; has inadequate data points (data is for new make, 3, 6, 9 and 12 year old whisky); applies a disclaimer that it makes no representation that it is accurate or complete; and its data cannot be reproduced and so is not available for scrutiny.

(ii) by selecting SWIR as a benchmark, Mr Robertson proceeds upon a straight-line and imprecise extrapolation which fails to respond to moderations in value having regard to brand, age or external forces including the market at the material time; proceeds upon data for only 2 years (2023 and 2024) when there was little variation; and proceeds upon the assumption that such minimal variation will continue. Such a methodology is highly artificial and fails to respond to the vagaries of a fluctuating market.

(iii) in excess of one half of the stock (all over 12 years) is valued on the straight-line extrapolation. This renders the valuation inherently imprecise and unreliable. Dr Wright considered that the use of straight-line extrapolation was a flawed mechanism for assessing value.

(iv) with regard to the calculation of RLA from the data for OLA, the back calculation undertaken by Mr Robertson lacks precision and tends to overestimate value.

(v) cask brokers generally sell to private clients; deploy a highly inflated price; and the brokers selected operate in England and are comparatively young.

(vi) application of the cask brokerage benchmark is inappropriate to value the particular stock; relies on data fully extrapolated from only two sources (Dalkeith Brokerage and Keeble Casks) for only 2 years (2023 and 2024) and so is inherently imprecise; is not a realistic model to promote the sale of lesser value and less well known stock; is likely not a sustainable model of selling ten casks of all brands over 3 years old. The benchmark provides a fragile and unreliable basis for valuation.

(vii) application of a matrix-based model is more reliable; and

(viii) to combine SWIR and cask brokerage is to seek to augment value.

Mr Robertson accepted in cross-examination that the hybrid methodology augmented the value which militates against the likelihood that a willing buyer would adopt this mode of valuation

(ix) Mr Robertson records that his valuation is merely "indicative" on the basis that "it has not been possible to find exact matches from the benchmark data".

[160] Criticism (vii) is of little weight as I accept Mr Robertson's evidence that SWIR is matrix- based. Dr Wright accepted that SWIR was a reputable publication used within the industry. I accept Mr Robertson's disavowal that he sought to augment value by choosing the combined valuation model. Rather, he examined the stock list and determined that its constituent elements indicated distinct modes of valuation as opposed to applying one mode to the entire stock. However, there is greater merit in the criticism of a straight-line extrapolation beyond 12-year-old stock. There was not a direct correlation between SWIR's data and the company's stock. The same is true of the matrices applied by Dr Wright in respect of their broader categorisation of stock into grain, mainland malt and island/heavily peated albeit they are more sensitive to the age of the whisky. Any concern about the cask brokerage benchmark arises not because DRSW Limited has not traded through such brokers but because Mr Robertson may overly rely upon it for all stock over 3 years of age (limited to 10 casks per distillery) and may fail to discern between those likely to attract broker interest. These criticisms do not justify rejection of Mr Robertson's methodology but indicate some need for caution and modification.

Dr Alan Wright

[161] In relation to Dr Wright's methodology, the defender submits that its reliability lies in its more traditional matrix form, drawing on the matrices of Dr Alan Rutherford which were compiled over many years. The matrices draw from a breadth of sources of industry

information; they encompass whisky from 1962 to the present day; they are bespoke to age and type of whisky, that is grain, mainland malt and island/heavily peated; they are updated quarterly and circulated promptly at the end of each quarter; and so there is no lag in the transmission of the values. The matrices are responsive to market conditions in real time which is submitted to be of particular moment in a turbulent market. They are apt for OLA and RLA stock with no requirement for back calculation of RLA from OLA values. No disclaimer is issued as to their accuracy or completeness. The matrices are used by lenders, asset finance companies, distillers and brand owners. While it is submitted that Dr Wright's matrices are recognised as the industry standard, no evidence was led that they are *the* industry standard as opposed to they are used by certain lenders, asset finance companies, distillers and brand owners.

[162] The pursuer submits that Dr Wright's reports are unreliable for the following reasons:

- his first report dated 10 July 2025 (7/88) is based on an inaccurate stock inventory (supplied to Dr Wright directly by the defender). Further, in so far as it purports to give a valuation at July 2025, it is based on an inaccurate stock inventory given the stock exchange which took place in quarter 4 of 2024.
- Dr Wright was instructed to provide a valuation of the June 2024 inventory on the basis of "willing buyer/ willing seller if the whole inventory had to be disposed of". His assumption was that the whole inventory was disposed of in one transaction. The concept of discounting was introduced for a forced sale of the whole inventory.
- in his report dated 18 December 2025 (7/104), Dr Wright's June 2024 valuation of three of the four whiskies which he knew had been regauged is different to

that contained in his earlier report (7/88). Dr Wright could offer no explanation for the difference in values when no new information was available to him between the dates of his reports. The court cannot be satisfied that Dr Wright's calculations of evaporation of the remaining regauged whiskies is accurate. His failure to provide an explanation undermines the whole report.

- there is no justification for the application of a discount to his relevant date valuation. Dr Wright discounts the majority of the company's grain by 40%. That discount is unsustainable having regard to the swap of grain whisky in quarter 4 of 2024 for an undiscounted value and without broker's fees.
- Dr Wright accepted that some whiskies will command a premium over the matrix value depending upon scarcity and quality. At June 2024, a premium may have applied to some of the inventory but not at July 2025.
- in attempting to explain his regauging calculations, Dr Wright produced the schedule at 7/211. The schedule purports to provide a September 2025 valuation of whisky stock which was not within the ownership of the company at September 2025. Dr Wright's explanation in cross-examination was that he was demonstrating what the stock at June 2024 would have been worth at September 2025.
- throughout Dr Wright's evidence, the influence of the "current" market both at July 2025 and September 2025 was apparent. He applied market considerations in September 2025 to his valuation. In his second valuation (7/104), Dr Wright understood that he was conducting (1) a valuation at relevant date and (2) a valuation at 30 September 2025. His instruction was "to provide a valuation of the [DRSW Limited] stock on the basis that there is a willing buyer and willing

seller and bearing in mind prevailing market conditions." During cross-examination, Dr Wright confirmed that prevailing market conditions were applied to both his relevant date valuation and at September 2025. He could offer no justification other than market conditions in September 2025 for the application of a discount to his relevant date valuation.

- trade out costs are those which relate to the company and not to the valuation of the whisky.
- for asset finance purposes, valuation in terms of the matrices allows lending institutions to apply LTV to ensure the lending institution recovers its money in the event of a forced sale. When undertaking valuations for asset finance companies, Dr Wright applies his matrices and does not carry out discounting. The lending institution may discount when determining LTV but Dr Wright plays no part in the terms and conditions on which loans are made.

In short, it is submitted that Dr Wright did not understand the valuation task necessary for a relevant date valuation in terms of the 1985 Act.

[163] I conclude that Dr Wright's evidence necessarily gives rise to concern that his relevant date valuation was influenced by market conditions at September 2025. He valued the stock at the relevant date through the prism of prevailing market conditions in 2025. That is apparent in both reports and highlighted during cross-examination. Such market conditions have no relevance to a relevant date valuation. Accordingly, I cannot rely on Dr Wright's valuation.

[164] Further, Dr Wright proceeded on the basis that a level of discounting would be required to sell the stock in one sale rather than being split up with desirable makes being cherry picked. He assumed a forced sale of the whole inventory and explained that that

introduced the concept of discounting. As apparently agreed by the forensic accountants, the appropriate valuation of the stock is a market valuation on the basis of a hypothetical willing buyer and hypothetical willing seller. As held in *Sweeney (No 1)* above at para [15],

> "the value of [any] property which is realisable for money is the price which a hypothetical willing purchaser would pay, and the hypothetically willing seller receive from him, for that property on a hypothetical sale at the date in question".

The valuation is objective. It is not a subjective assessment of what the stock is worth to a particular buyer. As such, no special buyer should be assumed. It should not be assumed that a buyer will operate the same business model as the seller. It should not be assumed that a buyer will liquidate the stock in one month which also came to inform Mr Robb's evidence in terms of his report dated 5 January 2026 (7/106).

[165] As noted above, it was common ground between the forensic accountants that the buyer is purchasing the shares in the company and therefore the entire stock at that date. As such, the entire stock will be available to the buyer of the company. It will be open to the buyer to transact with the stock as he chooses, adopting any number of business models. There is no basis for the assumption that the stock is sold in one transaction. In an assets valuation on a going concern basis, the valuation should not assume a forced sale or break-up. During cross-examination, Mr Robb sought to justify his assumption of an immediate disposal of stock over a one-month period having regard to the particular nature of the assets of DRSW Limited. The company's assets are its trading stock and stock requires to be sold. He distinguished such sale of stock from what arises on a break-up or forced sale. In this case, any buyer will want to know the immediately realisable value of the whole stock. I found such an analysis to be artificial and inconsistent with a valuation on a going concern basis. In respect that the application of a discount proceeds on the basis of an immediate sale of the whole stock inventory, it assumes a special buyer. Accordingly,

I reject Dr Wright's evidence and Mr Robb's evidence in reliance on such an assumption and as justification for application of a discount. I prefer the evidence of Peter Graham and his adherence to valuation of the company on a going concern basis.

[166] For the reasons set out at [160] above, I consider that David Robertson's valuation of the whisky stock requires modification. Perhaps mindful of the report's limitations, senior counsel for the pursuer set out a fallback position on the value of the whisky stock. That is the value of £9,146,497 which was referred to in evidence as the bank value at 30 June 2024. It was arrived at by Christine Barnes applying the Virgin Money matrix (then prepared by Iain Hamilton) for quarter 2 of 2024 to the stock inventory as reflected in 6/90(3). Mrs Barnes spoke to her methodology. The valuation was relied upon by DRSW Limited and by Virgin Money. The Virgin Money matrices were applied to inform the ratios for the whisky exchange in November 2024. The value of £9,146,497 was used by each of the forensic accountants in their initial valuations. It is not a market valuation. However, it serves to assist the court in modifying Mr Robertson's valuation. The court has the benefit of Peter Graham's report (6/68) which proceeds on the relevant date bank value and uses the same methodology as Alan Robb, except in respect of any discount. Mr Graham concludes that the value of the defender's 51 A shares is £2,920,304.

Cask adjustment

[167] In an attempt to simplify what became a confused chapter of evidence, where the adopted bank value includes the value of casks (cask or wood inclusive), it is appropriate to deduct their book value from the bank value. An adjustment of £34,360 is required. That was the approach of Peter Graham in his report (6/68) and so requires no further adjustment.

[168] The agreed or determined assets and liabilities are then as follows:

Pursuer's assets and liabilities	**Value**	**Defender's assets and liabilities**	**Value**
One half share of Edinburgh property	£350,000	One half share of Edinburgh property	£350,000
One half share of Strangford property	£325,000	One half share of Strangford property	£325,000
Artwork	£7,175	Artwork	£7,175
Joint BOS account ending 5728	£3,048	Joint BOS account ending 5728	£3,048
Interest in racehorse: proceeds of which divided equally	-	Interest in racehorse: proceeds of which divided equally	-
DRSW (Barbados) Ltd shares	£nil	DRSW (Barbados) Ltd shares	£nil
BOS account ending 0769	£91,141	BOS account ending 0161	£11,672
BOS account ending 1865	£nil	BOS account ending 2448	£12,921
Begley Brown Investment portfolio	£632,499	BOS account ending 1164	£319
SPPA Pension	£258,324	BOS account ending 9466	£15,000
Range Rover Evoque	£24,015	DRSW Limited shares	£2,920,304
Registration plate MBT 4T	£800	Old Fine and Rare Whisky Company Limited shares	£nil

Watches and jewellery	£27,405	Director's loan due to defender by OFRWC Limited	£9,300
HMRC liability	(£2,851)	Alumni Spirits Limited shares	£nil
		Halifax Share dealing account 4952	£507,418
		Transact GIA	£14,984
		Transact ISA	£288,467
		Transact SIPP	£973,435
		Porsche 911	£70,500
		BMW X5	£71,360
		Registration plate D15 TTL	£600
		Registration plate SR17 AUG	£500
		Rolex Oyster watch	£12,500
		Rolex Oyster silver watch	£7,000
		Whisky collection	£17,575
		Golf debenture	£13,000
		HMRC liability	(£5,443)
		Marks & Spencer credit card	(£2,237)

		American Express credit card	(£10,521)
		Director's Loan due to DRSW Limited by the defender	(£460,919)
Pursuer's total net assets	**£1,716,556**	**Defender's total net assets**	**£ 5,152,958**

[169] Accordingly, the total net matrimonial property is in the sum of £6,869,514, of which the pursuer has total net assets of £1,716,556 and the defender has total net assets of £5,152,958. In terms of section 8(2) of the 1985 Act, I am required to make such orders for financial provision as are justified by the section 9 principles and are reasonable having regard to the resources of the parties. In applying the section 9(1)(a) principle, the net value of the matrimonial property will be shared fairly when it is shared equally or in such other proportions as justified by special circumstances. Each party advances various special circumstances. The pursuer relies upon the section 9(1)(b) and (d) principles, arguing respectively that she has been economically disadvantaged and that she should be awarded reasonable provision to enable her to adjust to loss of support on divorce. I now address these respective arguments.

Pursuer's special circumstances

Gifts to the parties' son

[170] It is agreed that between 1 August 2018 and 1 July 2025 the defender made payments to the parties' son totalling £1,064,399, of which £117,000 was paid between the relevant date

and 1 July 2025. Further, it is agreed that between 22 and 24 May 2024, £275,010 was paid to the parties' son from the parties' joint account but that the source of the funds was the pursuer's Begley Brown Transact portfolio. It is not disputed that a separate payment of £1 million was made to the parties' son in around 2018 to purchase a home in Texas. The total sums paid were £2,339,409.

[171] The pursuer submits that the gift of £275,010 made at the defender's direction from her Transact portfolio shortly prior to separation is a special circumstance justifying unequal division of the matrimonial property. It must be recognised either as a special circumstance or as a quantifiable economic disadvantage. In terms of section 9(1)(b), she has suffered economic disadvantage in the interests of the defender as a result of the defender's direction that the gift was made from her portfolio. She incurred a CGT liability as a result, estimated to be £900 by Chris Brown. The remaining gifts to their son are submitted to be factors to be taken into account in any balancing exercise.

[172] The pursuer's evidence is that she was excluded from financial discussions and decisions. She was not consulted. Decisions were presented as a *fait accompli*. She was put in the position that she felt she had to agree. She was aware of the initial gift of £1 million, of the monthly payments and of substantial gifts to purchase cars. In respect of the £275,010, the pursuer had voiced her discomfort at giving further sums and sought time to think about it. Her reservations are recorded in the summary of the annual Begley Brown review in February 2024. She was contacted by Begley Brown in the new tax year in April 2024 for instructions; received a text from the defender stating, "this needs to be done asap!"; and the defender screamed at her that he would end the marriage if she did not agree to the gift. The pursuer questions the defender's motives in making her agree to the specific gift. More generally, she questions what arrangements the defender has made with their son in respect

of the funds and whether the gifted money was used for other purposes. Specifically, she worries that their son may have set the funds aside to purchase a property for the defender after divorce.

[173] I do not accept the pursuer's evidence that she was excluded from financial discussions. The documentary records of the meetings which the parties attended with Begley Brown and the email exchanges in which the pursuer was included undermine any such contention. Rather, from those exchanges and other direct email exchanges with the pursuer, it is clear that every attempt was made to explain options to her and to ensure that she was comfortable making decisions. She apparently had no difficulty in voicing her reservations about the gift of £275,010 and seeking time to consider. Ultimately, the pursuer instructed the transfer, observing that the gift would be of great assistance to their son. I accept that there was reticence on her part whereas the defender was keen to conclude the transfer. The defender accepted that he shouted at the pursuer which he explained arose from the pursuer's unwillingness to take the financial advice for which they were paying. The source of the funds for the gift was advised by Begley Brown and the tax consequences considered as part of that advice. The advice and transfer were consistent with a longer-term strategy of IHT planning. The fact that the pursuer was less keen than the defender on that strategy but nonetheless implemented it (in authorising the transfer) does not provide a basis for economic disadvantage nor for a special circumstance. There does not require to be unanimity of purpose. The important point is that the pursuer instructed the transfer after advice and after consideration.

[174] However, I consider that from 2022 certain other gifts made by the defender to the parties' son require scrutiny. As noted, the pursuer was aware of regular gifting of £3,500 per month (£42,000 per annum) and of sums to replace a car or cars (at a minimum

of £70,000 on the evidence). The defender gifted £366,000 from November 2022 to February 2024 in addition to the monthly gifts. Under deduction of the sum for car(s), the balance is £296,000. I accept the defender's evidence that the sum of £83,000 was inherited from his mother and gifted for the parties' granddaughter's education, leaving a balance of £213,000. At the November 2022 annual Begley Brown review it was discussed that a further £500,000 could easily be gifted away with no compromise to the parties' lifestyle but that there was no rush. The defender's evidence was that Begley Brown gave the direction of travel on an annual basis as to what could comfortably be given away. It was then up to the parties to give what they wanted to give. I am not satisfied that the approximate sum of £213,000 gifted after the November 2022 meeting was within the pursuer's knowledge. It is a special circumstance to be taken into account in any balancing exercise in respect that one half thereof (£106,500) is not available to the pursuer.

Pursuer's SPPA pension

[175] The pursuer argues special circumstances in respect that her contributions to her SPPA pension ceased from retirement in 2012, albeit her evidence was that she retired in 2013. While not submitted to merit unequal division of the matrimonial property, it is said to be factor to be taken into account in any balancing exercise. I am not persuaded that the decision by the pursuer to retire on what she describes as her own terms constitutes a special circumstance in this case.

Tax consequences of a pension share

[176] The defender concluded for a pension sharing order in the pursuer's favour after drawing down his tax-free lump sum of £264,106 after the relevant date. The tax

consequence for the pursuer is that she will pay tax on any drawdowns from a pension credit at the higher rate of tax (42% in Scotland or 40% in Northern Ireland). In the event of a pension sharing order, the court ought to recognise that the lump sum entitlement could have been divided and the pursuer could have received a tax-free lump sum of up to £132,000. It seems to me that in the event of a pension sharing order for £500,000, the maximum tax-free lump sum would be £125,000 (25% of the pension credit). If the pursuer requires to pay tax on that amount at 40%, she will pay tax of £50,000. In respect of the balance of the pension credit, she will pay tax on any sums drawn down which the defender will also do. Accordingly, as a special circumstance the sum of £50,000 may be taken into account in any balancing exercise.

Section 9(1)(d)

[177] The pursuer submits that absent the defender's alimentary support, she will have a shortfall of £4,687 per month. That figure anticipates that both the Edinburgh and Strangford properties will be transferred to her. The pursuer will require to adjust to the loss of support after divorce. Unless she receives a sufficient capital sum, she will require the payment of periodical allowance at the rate of £4,000 per month. The defender counters that no order for periodical allowance should be made having regard to his lack of income and the pursuer's stable financial circumstances. In her proposed scheme for division of matrimonial property, the pursuer concedes that in the event of a capital sum instalment of £102,000 being paid within 28 days of decree of divorce, no periodical allowance will be due from that date.

Defender's special circumstances

[178] The defender submits that the cases of *McConnell*, *Wallace* and *Sweeney* above are authority for the principle that the realisability of an asset, when considered alongside any tax consequences, can constitute special circumstances and, having regard to resources, justify a departure from equal sharing. In *Foster* above at paragraph 36, the court observed that on occasion reduction in the level of capital sum is an available option, amongst others, worthy of exploration. The circumstances where reduction is appropriate were submitted not to occur commonly. However, the range of issues in the present case fall outwith those normally encountered. The current difficulties in the global whisky industry, their impact upon the company and the inability to extract value from the company are beyond the defender's control.

[179] The special circumstances applicable are submitted not to be limited to tax considerations. Rather, they are of such significance in number and effect that they justify a departure from equal sharing. Special circumstances include the inability to sell stock or realise value from the defender's shareholding at present or in the near future; the costs to maintain the business; the ill fortunes of the whisky industry; the inability of the company to support drawings or the declaration of dividends; the punitive tax realities pertaining to dividend tax; lack of certainty regarding the extent and time frame of any recovery of the whisky industry and thus the ability of the company to trade and generate income; the reduction in the bank borrowing facility; the increase of bank borrowings; that the defender has funded all household outgoings since separation, despite taking no drawings; and the defender's continuing liability for his director's loan.

[180] The assets available to the pursuer are submitted to be readily realisable with minimal tax consequences and are predominantly risk free. In contrast, the defender's

shareholding in DRSW Limited is not readily realisable. Realisability carries significant tax consequences. The defender will carry the substantial risk of the uncertainty attaching to the value of his shareholding. It would be inequitable for the defender to bear the tax liability in full. The liability should be shared as in *Wallace*. It is submitted that the circumstances enumerated constitute special circumstances and that having regard to the paucity of realisable resources, they justify a departure from equal sharing.

Sale of DRSW Limited

[181] I agree with the submission on the pursuer's behalf, that many of the defender's special circumstances arguments overlap with his resources arguments. The realistic acceptance by the pursuer that any balancing capital sum will require to be paid in instalments is important. I have no difficulty in finding that there was a decline in fortunes in the whisky industry by early 2025. The timescale for recovery is not certain but recovery is anticipated from 2027, however uneven, and the industry is adapting to new markets. Turnover and profitability of DRSW Limited have not been even. Its directors have consistently certified the company as a going concern, most recently on 20 August 2025. Virgin Money is willing to renew loan facilities albeit at a lower LTV rate as reflected throughout the industry. Based on the stock valuation to 31 March 2026 (7/217), the value of the defender's shareholding has not declined. While accepting that the confidence with which the defender anticipated selling the business at age 65 (so December 2027) has been dented, the likely timescale to sell the company is not significantly different to that envisaged in the defender's discussions with his fellow director and contemplated in the parties' joint financial planning.

[182] The defender's pessimism about realisability of assets and immediate financial prospects is undermined somewhat by his other financial conduct. Both the defender and his fellow director continued to make pension contributions after the relevant date and at least to year end March 2025; the defender made further gifts to the parties' son of £117,000; DRSW Limited has extended credit to Alumni in terms of an unpaid invoice of £102,669; and the defender has made payments on behalf of Alumni and built up a director's loan due to him of at least £71,536.

[183] In respect that any balancing capital sum can be paid in instalments to allow the sale of DRSW Limited within a reasonable timescale, I do not consider that lack of resources is a special circumstance justifying unequal division to the extent of the reduction sought of 10% of the capital sum. The defender in his evidence sought a period of 3 years. I address below that the defender will have other resources which can be realised albeit that may not be desirable. However, I do consider that the capital gains tax which will arise on sale of DRSW Limited should be taken into account. Unlike in *Sweeney (No 2)* above the fact of sale is not uncertain. It was always envisaged; will be required to release capital both for payment to the pursuer and for the defender; and is consistent with the ages and retirement plans of the defender and his fellow director. All discussions with Begley Brown anticipated payment of tax on sale. The court cannot know the precise date of sale nor the applicable rate at that time. The defender submits that the parties should share the liability and that a one-half share thereof should be deducted from the balancing payment due by the defender to the pursuer. Other special circumstances operate which militate against a deduction of a one-half share. Any indicative tax should be calculated relative to the relevant date value as it is that value which will be shared. On the relevant date value the defender's maximum gain is £2,920,304 and the maximum capital gains tax at 24% is £700,873. One half thereof

is £350,437. For completeness, there is no evidence before the court to support the likelihood of substantial dividends being declared by DRSW Limited and giving rise to a consequent tax liability.

Other special circumstances

[184] I disagree that the fact that the defender has funded all household outgoings is a special circumstance where interim aliment was ordered on the basis of the defender agreeing to meet the outgoings for the Edinburgh and Strangford properties. He has not sought to vary the order. Similarly, I disagree that the defender's continuing liability for his director's loan is a special circumstance. It is a matrimonial liability which has been taken into account in calculating the net matrimonial assets.

Resources

[185] The defender's resources when he swore his affidavit (paragraphs 107 and 108) on 24 February 2026 were as follows: total bank balances of £70,430; ISAs of £353,615; SIPPs of £885,924; a director's loan to Alumni of £71,536; his interest in DRSW Limited (on the current bank value of the whisky) £2,921,488; his BMW car; watches; and whisky collection. It is submitted that the defender will have approximately £100,000 available to him within his ISA following payment of legal costs. No specific evidence was led as to any outstanding liability for the parties' legal costs but it can readily be understood that there will be such a liability. It can reasonably be anticipated that the pursuer will require to meet similar legal costs. The pursuer's Begley Brown portfolio (GIA, ISA and personal pension) has reduced from £632,499 at the relevant date to £552,240 at 30 January 2026 (6/126).

Fair sharing

[186] The net matrimonial property totals £6,869,514. A one-half share thereof is £3,434,757. The pursuer held net assets in the sum of £1,716,556. Absent special circumstances, the balancing payment due to the pursuer would be £1,718,201. I consider that the balancing payment should be adjusted to reflect the special circumstances of (i) the capital gains tax arising on sale of DRSW Limited balanced against (ii) the gifts made to the parties' son of which the pursuer was unaware; and (iii) the additional tax paid on a disqualifying pension credit. One half of the capital gains tax is in the sum of £350,437 and I deduct therefrom £106,500 (50% of the sums gifted) and £50,000 (additional tax). Therefore, the identified special circumstances are properly reflected by reducing the balancing payment by £193,937. Accordingly, the balancing payment due to the defender is £1,524,264.

Orders for financial provision

[187] I now undertake the section 8(2)(b) requirement to examine how fair financial provision can be reasonably achieved. As noted in *Foster* above:

> "The sec[tion] 8(2)(b) requirement to consider how the fair financial provision on which the court has alighted using the principles of sec[tion] 9 of the 1985 Act will be implemented is an extremely important final stage of the court's analysis. It is not simply a discretionary exercise, but requires a careful examination of the evidence to see how fair financial provision could reasonably be achieved through orders of court. The court has considerable flexibility in deciding how difficulties with resources may be taken into account. Deferred payment of a counterbalancing capital sum, payment by instalments and on occasion reduction in the level of capital sum are always available options worthy of exploration."

[188] The exercise requires determination of the parties' respective conclusions for transfer of the jointly owned Edinburgh and Strangford properties; the pursuer's alternative

conclusion for sale of the Edinburgh property; the defender's conclusion for a pension sharing order in the pursuer's favour; and the pursuer's conclusions for a capital sum and periodical allowance.

Heritable properties

[189] The pursuer seeks the transfer of both heritable properties into her sole name. Pressed to choose one home, her reluctant preference would be to retain the Strangford property given its proximity to where she grew up; her role in its interior design; and the fact that she is settled there. However, she also wants to keep a home in Edinburgh given the parties' family life was based there and Edinburgh's cultural offerings. The defender seeks the transfer of the Strangford property into his sole name, failing which the Edinburgh property. He has developed an affinity to and sees himself as settled in Strangford.

[190] It is submitted on the pursuer's behalf that the nature of the resources is such that both properties should be transferred to her in preference to a pension sharing order and a greater deferred payment. In the event that a property transfer order of the Edinburgh property is not made, it should be sold and the proceeds paid to the pursuer. It is submitted on the defender's behalf that it would be unfair for the defender not to have one of the two homes. The higher value property (Edinburgh) should be transferred to the pursuer. Ultimately, it is agreed that any transfer of one party's half share should be credited at current and not relevant date value: section 10(3A) of the 1985 Act.

[191] I determine that the Strangford property should be transferred to the pursuer and the Edinburgh property transferred to the defender. Such orders reflect where each party currently resides and the pursuer's greater connection to Northern Ireland. While transfer of the Edinburgh property to the defender will increase the balancing sum to be paid by

instalments, the pursuer will receive interest on the outstanding sums and the balancing capital sum will still be paid in full within a reasonable period of 3 years. Further, such orders are reasonable having regard to the nature of the available resources in allowing each party to retain a home. The Edinburgh property will also be a resource available to the defender which may be used to fund part of any capital sum in the event that he decides to downsize. It is not reasonable to force that decision upon him by ordering sale at this stage.

Pension share

[192] The defender concludes for a pension sharing order in favour of the pursuer in the sum of £500,000. The pursuer no longer insists on her plea to the competency of such an order. She resists it based on the fairness and reasonableness of an order. The pursuer will pay tax on any drawdowns at the higher rate of tax. While the defender has benefitted from the tax-free lump sum, he too will be liable for tax on any drawdowns. It is not unfair or unreasonable to suffer tax consequences where those are common to the other party. One party does not have an entitlement to receive only tax-free assets. I have made allowance for the imbalance in tax in respect of the lump sum. Again, having regard to the nature of the available resources, I consider that it is reasonable to make a pension sharing order in the sum of £500,000 in the pursuer's favour. As spoken to by David Bremner, a pension credit provides a monetary resource which can produce a reliable income throughout life if managed appropriately and can be flexible to suit an individual's financial situation.

Capital sum

[193] In light of the foregoing property transfer orders and pension sharing order, I shall make an order for payment of a capital sum of £1,074,264. It will be payable in four instalments:

(i) £268,566 due on the earlier of the date of transfer of the Edinburgh property to the defender or 3 months of the date of decree of divorce;

(ii) £268,566 due within 15 months of the date of decree of divorce;

(iii) £268,566 due within 27 months of the date of decree of divorce; and

(iv) £268,566 due within 39 months of the date of decree of divorce;

Disposal

[194] I am satisfied that the proposed orders effect a fair division and are not only justified by the section 9 principles but are also reasonable having regard to the parties' resources.

[195] I will therefore:

(a) divorce the parties;

(b) make an order for payment of a capital sum of £1,074,264 payable in four instalments:

(i) £268,566 due on the earlier of the date of transfer of the Edinburgh property to the defender or 3 months of the date of decree of divorce;

(ii) £268,566 due within 15 months of the date of decree of divorce;

(iii) £268,566 due within 27 months of the date of decree of divorce; and

(iv) £268,566 due within 39 months of the date of decree of divorce;

with interest at the rate of 4% per annum from the date of decree of divorce until the payment date and 8% per annum on late payment;

(c) make an order for transfer of the defender's interest in the Strangford property to the pursuer;

(d) make an order for transfer of the pursuer's interest in the Edinburgh property to the defender;

(e) make a pension sharing order in favour of the pursuer in the sum of £500,000;

(f) make an order for payment by the defender of periodical allowance of £2,000 per month until payment of the capital sum instalment in b(i) with interest thereon at the rate of 8% per annum on each monthly payment from the due date until payment; and

(g) put the case out by order to be addressed on the mechanics of the pension sharing order and on expenses.