



Family Law (Scotland) Act 1985

1985 CHAPTER 37

Financial provision on divorce, etc.

13 Orders for periodical allowance.

- (1) An order under section 8(2) of this Act for a periodical allowance may be made—
 - (a) on granting decree of divorce [^{F1}or of dissolution of a civil partnership];
 - (b) within such period as the court on granting [^{F2}the decree] may specify; or
 - (c) after [^{F3}such decree] where—
 - (i) no such order has been made previously;
 - (ii) application for the order has been made after the date of decree; and
 - (iii) since the date of decree there has been a change of circumstances.
- (2) The court shall not make an order for a periodical allowance under section 8(2) of this Act unless—
 - (a) the order is justified by a principle set out in paragraph (c), (d) or (e) of section 9(1) of this Act; and
 - (b) it is satisfied that an order for payment of a capital sum or for transfer of property [^{F4}, or a pension sharing order [^{F5}or pension compensation sharing order],] under that section would be inappropriate or insufficient to satisfy the requirements of the said section 8(2).
- (3) An order under section 8(2) of this Act for a periodical allowance may be for a definite or an indefinite period or until the happening of a specified event.
- (4) Where an order for a periodical allowance has been made under section 8(2) of this Act, and since the date of the order there has been a material change of circumstances, the court shall, on an application by or on behalf of either party to the marriage or his executor [^{F6}, or as the case may be either partner or his executor,], have power by subsequent order—
 - (a) to vary or recall the order for a periodical allowance;
 - (b) to backdate such variation or recall to the date of the application therefor or, on cause shown, to an earlier date;

Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 13. (See end of Document for details)

- (c) to convert the order into an order for payment of a capital sum or for a transfer of property.

[^{F7}(4A) Without prejudice to the generality of subsection (4) above, the making of a [^{F8}maintenance assessment][^{F8}maintenance calculation] with respect to a child who has his home with a person to whom the periodical allowance is made (being a child to whom the person making the allowance has an obligation of aliment) is a material change of circumstances for the purposes of that subsection.]

- (5) The provisions of this Act shall apply to applications and orders under subsection (4) above as they apply to applications for periodical allowance and orders on such applications.
- (6) Where the court backdates an order under subsection (4)(b) above, the court may order any sums paid by way of periodical allowance to be repaid.
- (7) An order for a periodical allowance made under section 8(2) of this Act—
- (a) shall, if subsisting at the death of the [^{F9}person] making the payment, continue to operate against that [^{F9}person's] estate, but without prejudice to the making of an order under subsection (4) above;
- [^{F10}(b) shall cease to have effect on the person receiving payment—
- (i) marrying,
- (ii) entering into a civil partnership, or
- (iii) dying,
- except in relation to any arrears due under it.]

Textual Amendments

- F1** Words in s. 13(1)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 20(2)(a)**; S.S.I. 2005/604, arts. 2(c), 4
- F2** Words in s. 13(1)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 20(2)(b)**; S.S.I. 2005/604, arts. 2(c), 4
- F3** Words in s. 13(1)(c) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 20(2)(c)**; S.S.I. 2005/604, arts. 2(c), 4
- F4** Words in s. 13(2)(b) inserted (1.12.2000) by 1999 c. 30, s. 84, **Sch. 12 Pt. I para. 10** (with s. 91(4)); S.S.I. 2000/238, **art. 2**
- F5** Words in s. 13(2)(b) inserted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 7 para. 7**; S.I. 2011/664, art. 2(3), **Sch. Pt. 2**
- F6** Words in s. 13(4) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 20(3)**; S.S.I. 2005/604, arts. 2(c), 4
- F7** S. 13(4A) inserted (5.4.1993) by S.I. 1993/660, **art. 2(4)**.
- F8** Words in s. 13(4A) substituted (3.3.2003 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(a)(2), **Sch. 3 para. 5(4)** (with s. 83(6)); S.I. 2003/192, art. 3, **Sch.**
- F9** Words in s. 13(7)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 20(4)(a)**; S.S.I. 2005/604, arts. 2(c), 4
- F10** S. 13(7)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 20(4)(b)**; S.S.I. 2005/604, arts. 2(c), 4

Changes to legislation:

There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 13.