



Family Law (Scotland) Act 1985

1985 CHAPTER 37

Financial provision on divorce, etc.

8 Orders for financial provision.

- (1) In an action for divorce, either party to the marriage ^{F1}and in an action for dissolution of a civil partnership, either partner] may apply to the court for one or more of the following orders—
 - (a) an order for the payment of a capital sum ^{F2}... to him by the other party to the ^{F3}action];
 - ^{F4}(aa) an order for the transfer of property to him by the other party to the ^{F3}action];]
 - (b) an order for the making of a periodical allowance to him by the other party to the ^{F3}action];
 - ^{F5}(baa) a pension sharing order.]
 - ^{F6}(bab) a pension compensation sharing order;]
 - ^{F7}(ba) an order under section 12A(2) or (3) of this Act;]
 - ^{F8}(bb) an order under section 12B(2);]
 - (c) an incidental order within the meaning of section 14(2) of this Act.
- (2) 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.
- (3) An order under subsection (2) above is in this Act referred to as an “order for financial provision”.
- ^{F9}(4) The court shall not, in the same proceedings, make both a pension sharing order and an order under section 12A(2) or (3) of this Act in relation to the same pension arrangement.

^{F10}(4A)

Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 8. (See end of Document for details)

- (5) Where, as regards a pension arrangement, the parties to a marriage [^{F11}or the partners in a civil partnership] have in effect a qualifying agreement which contains a term relating to pension sharing, the court shall not—
- (a) make an order under section 12A(2) or (3) of this Act; or
 - (b) make a pension sharing order,
- relating to the arrangement unless it also sets aside the agreement or term under section 16(1)(b) of this Act.
- (6) The court shall not make a pension sharing order in relation to the rights of a person under a pension arrangement if there is in force an order under section 12A(2) or (3) of this Act which relates to benefits or future benefits to which he is entitled under the pension arrangement.
- (7) In subsection (5) above—
- (a) “term relating to pension sharing” shall be construed in accordance with section 16(2A) of this Act; and
 - (b) “qualifying agreement” has the same meaning as in section 28(3) of the Welfare Reform and Pensions Act 1999.]
- [^{F12}(8) The court shall not, in the same proceedings, make both a pension compensation sharing order and an order under section 12B(2) in relation to the same PPF compensation.
- (9) The court shall not make a pension compensation sharing order in relation to rights to PPF compensation that—
- (a) derive from rights under a pension scheme which is subject to an order made under section 12A(2) or (3) in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons,
 - (b) derive from rights under a pension scheme which were at any time the subject of a pension sharing order in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons,
 - (c) are or have been the subject of a pension compensation sharing order in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons, or
 - (d) are the subject of an order made under section 12B(2) in relation to the marriage or (as the case may be) civil partnership or a previous one between the same persons.
- (10) Where, as regards PPF compensation, the parties to a marriage or the partners in a civil partnership have in effect a qualifying agreement which contains a term relating to pension compensation sharing, the court shall not—
- (a) make an order under section 12B(2); or
 - (b) make a pension compensation sharing order,
- relating to the compensation unless it also sets aside the agreement or term under section 16(1)(b) of this Act.
- (11) For the purposes of subsection (10)—
- (a) the expression “term relating to pension compensation sharing” is to be construed by reference to section 16(2AA) of this Act; and
 - (b) a qualifying agreement is one to which section 110(1) of the Pensions Act 2008 relates.]

Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 8. (See end of Document for details)

Textual Amendments

- F1** Words in s. 8(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 14(2)(a)**; S.S.I. 2005/604, arts. 2(c), 4
- F2** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, Sch. 8 para. 34(a), **Sch. 9**
- F3** Word in s. 8(1)(a)-(c) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 14(2)(b)**; S.S.I. 2005/604, arts. 2(c), 4
- F4** S. 8(1)(aa) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 para. 34(b)**
- F5** S. 8(1)(baa) inserted (1.12.2000) by 1999 c. 30, s. 20(1)(2); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- F6** S. 8(1)(bab) inserted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 7 para. 2(a)(i)**; S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F7** S. 8(1)(ba) inserted (19.8.1996) by 1995 c. 26, s. 167(1); S.I. 1996/1843, art. 3(b)
- F8** S. 8(1)(bb) inserted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 7 para. 2(a)(ii)**; S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F9** S. 8(4)-(7) inserted (1.12.2000) by 1999 c. 30, s. 84, **Sch. 12 Pt. I para. 6**; S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. IV**
- F10** S. 8(4A) repealed (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 7 para. 2(b), **Sch. 11 Pt. 4**; S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F11** Words in s. 8(5) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(c), **Sch. 28 para. 14(3)**; S.S.I. 2005/604, arts. 2(c), 4
- F12** S. 8(8)-(11) added (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 7 para. 2(c)**; S.I. 2011/664, art. 2(3), Sch. Pt. 2

Modifications etc. (not altering text)

- C1** S. 8 excluded (1.12.2000) by 1999 c. 30, s. 85(5); S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. IV**

Changes to legislation:

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