

SCHEDULES

SCHEDULE 3

Section 7

DETERMINATION OF DATE WHEN REPRESENTATION IS FIRST TAKEN OUT

1 In section 31 of the Matrimonial Causes Act 1973 (variation, discharge, etc., of certain orders for financial relief), for subsection (9) substitute—

“(9) The following are to be left out of account when considering for the purposes of subsection (6) above when representation was first taken out—

- (a) a grant limited to settled land or to trust property,
- (b) any other grant that does not permit any of the estate to be distributed,
- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
- (d) a grant, or its equivalent, made outside the United Kingdom (but see subsection (9A) below).

(9A) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of subsection (9) above, but is to be taken as dated on the date of sealing.”

2 For section 23 of the Inheritance (Provision for Family and Dependants) Act 1975 (determination of date on which representation was first taken out) substitute—

“23 Determination of date on which representation was first taken out

(1) The following are to be left out of account when considering for the purposes of this Act when representation with respect to the estate of a deceased person was first taken out—

- (a) a grant limited to settled land or to trust property,
- (b) any other grant that does not permit any of the estate to be distributed,
- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
- (d) a grant, or its equivalent, made outside the United Kingdom (but see subsection (2) below).

(2) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of this section, but is to be taken as dated on the date of sealing.”

3 In section 20 of the Administration of Justice Act 1982 (rectification of wills), for subsection (4) substitute—

Status: This is the original version (as it was originally enacted).

“(4) The following are to be left out of account when considering for the purposes of this section when representation with respect to the estate of a deceased person was first taken out—

- (a) a grant limited to settled land or to trust property,
- (b) any other grant that does not permit any of the estate to be distributed,
- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
- (d) a grant, or its equivalent, made outside the United Kingdom (but see subsection (5)).

(5) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of subsection (4), but is to be taken as dated on the date of sealing.”

4 (1) Schedule 1 to the Children Act 1989 (financial provision for children) is amended as follows.

(2) In paragraph 7 (variation of orders for secured periodical payments after death of parent), for sub-paragraph (6) substitute—

“(6) The following are to be left out of account when considering for the purposes of sub-paragraph (2) when representation was first taken out—

- (a) a grant limited to settled land or to trust property,
- (b) any other grant that does not permit any of the estate to be distributed,
- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
- (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (6A)).

(6A) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (6), but is to be taken as dated on the date of sealing.”

(3) In paragraph 11 (alteration of maintenance agreements after death of one of the parties), for sub-paragraph (4) substitute—

“(4) The following are to be left out of account when considering for the purposes of sub-paragraph (3) when representation was first taken out—

- (a) a grant limited to settled land or to trust property,
- (b) any other grant that does not permit any of the estate to be distributed,
- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
- (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (4A)).

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

(4A) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (4), but is to be taken as dated on the date of sealing.”

5 In Schedule 5 to the Civil Partnership Act 2004, in paragraph 60 (variation of secured periodical payments order where person liable has died), for sub-paragraph (6) substitute—

“(6) The following are to be left out of account when considering for the purposes of sub-paragraph (3) when representation was first taken out—

- (a) a grant limited to settled land or to trust property,
- (b) any other grant that does not permit any of the estate to be distributed,
- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
- (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (7)).

(7) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (6), but is to be taken as dated on the date of sealing.”