



# Family Law (Scotland) Act 1985

## 1985 CHAPTER 37

### *Aliment*

#### **7 Agreements on aliment.**

- (1) Any provision in an agreement which purports to exclude future liability for aliment or to restrict any right to bring an action for aliment shall have no effect unless the provision was fair and reasonable in all the circumstances of the agreement at the time it was entered into.
- (2) Where a person who owes an obligation of aliment to another person has entered into an agreement to pay aliment to or for the benefit of the other person, on a material change of circumstances application may be made to the court by or on behalf of either person for variation of the amount payable under the agreement or for termination of the agreement.

[<sup>F1</sup>(2ZA) On an application under subsection (2) above, the court may—

- (a) pending determination of the application, make such interim order as it thinks fit;
- (b) make an order backdating a variation of the amount payable under the agreement to—
  - (i) the date of the application or such later date as the court thinks fit; or
  - (ii) on special cause shown, a date prior to the date of the application.

(2ZB) Where the court makes an order under subsection (2ZA)(b) above, it may order any sums paid under the agreement to be repaid on such terms (including terms relating to repayment by instalments) as the court thinks fit.

(2ZC) Nothing in subsection (2ZA) shall empower the court to substitute a lump sum for a periodical payment.]

[<sup>F2</sup>(2A) Without prejudice to the generality of subsection (2) above, the making of a [<sup>F3</sup>maintenance assessment][<sup>F3</sup>maintenance calculation] with respect to a child to whom or for whose benefit aliment is payable under such an agreement is a material change of circumstances for the purposes of that sub section.]

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*Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 7. (See end of Document for details)*

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- (3) Subsections (8) and (9) of section 2 of this Act (which afford a defence to an action for aliment in certain circumstances) shall apply to an action to enforce such an agreement as is referred to in subsection (2) above as they apply to an action for aliment.
- (4) In [<sup>F4</sup>this section] “the court” means the court which would have jurisdiction and competence to entertain an action for aliment between the parties to the agreement to which the application under that subsection relates.
- (5) In this section “agreement” means an agreement entered into before or after the commencement of this Act and includes a unilateral voluntary obligation.

#### Textual Amendments

- F1** S. 7(2ZA)-(2ZC) inserted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 20(2)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F2** S. 7(2A) inserted (5.4.1993) by [S.I. 1993/660](#) art. 2(3).
- F3** Words in s. 7(2A) 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(3)** (with s. 83(6)); [S.I. 2003/192](#), art. 3, Sch.
- F4** Words in s. 7(4) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 20(3)**, 46(2); [S.S.I. 2006/212](#), art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 7.