



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1966

## 1966 CHAPTER 19

### **8 Variation and recall by the sheriff of certain orders made by the Court of Session in respect of maintenance, custody etc., and amendment of s. 2 of the Divorce (Scotland) Act 1938.**

- (1) The provisions of this section shall apply to the following orders made by the Court of Session, that is to say—
- (a) an award of aliment,
  - (b) an order for an annual or periodical allowance made under section 2 of the <sup>M1</sup>Divorce (Scotland) Act 1938, whether under that section as originally enacted or as amended by any subsequent enactment including this Act,
  - (c) an order for a periodical allowance made under subsection (2) or (3) of section 26 of the <sup>M2</sup>Succession (Scotland) Act 1964, [<sup>F1</sup>or under section 5 of the Divorce (Scotland) Act 1976][<sup>F2</sup>or section 29 of the Matrimonial and Family Proceedings Act 1984][<sup>F3</sup>or section 8 of the Family Law (Scotland) Act 1985]
  - [<sup>F4</sup>(cc) an order under section 11 of the Children (Scotland) Act 1995 (orders in respect of parental responsibilities etc.) or under any earlier enactment relating to the custody, care or supervision of a child, or access to a child;]
  - (d) an order made by virtue of section 9 of the <sup>M3</sup>Conjugal Rights (Scotland) (Amendment) Act 1861 or under Part II of the <sup>M4</sup>Matrimonial Proceedings (Children) Act 1958 [<sup>F5</sup>or by virtue of Part II of the <sup>M5</sup>Guardianship Act 1973], and
  - (e) an order varying any such order as aforesaid.
- (2) Where any person has a right to make application for the variation or recall of any order . . . <sup>F6</sup>to which the provisions of this section apply, he may make an application in that behalf to the sheriff, and, subject to the provisions of the next following subsection, the sheriff shall have the like powers in relation to the application as the Court of Session.

*Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966, Section 8. (See end of Document for details)*

- (3) Where in any application under this section any other party to the action, not later than the first calling of the application in court, requests that it be remitted to the Court of Session, the sheriff shall so remit, and the Court of Session shall deal with it accordingly.
- (4) Notwithstanding anything in Part I of the <sup>M6</sup>Public Records (Scotland) Act 1937 (transmission of court records to and from the Keeper of the Records of Scotland etc.), the powers of the Court of Session, conferred by sections 16 and 34 respectively of the <sup>M7</sup>Administration of Justice (Scotland) Act 1933 to regulate its own procedure and that of the sheriff court, shall include power to provide for the transmission to and from the sheriff court of any process in the action to which an application under this section relates; and for the purposes of the said Act of 1937 and of this section any record of such an application shall be deemed to be a record of the Court of Session.
- (5) ..... <sup>F7</sup>
- (6) In this section—
- “order” includes a provision in a final decree, but does not include an interim order,
- “party” means any person having a right to make application for the variation or recall of the order in question, and
- “sheriff” means
- [<sup>F8</sup>(a) in relation to an order under subsection (1)(a), (b) [<sup>F9</sup>, (c) or (cc)]above or an order varying any such order]the sheriff having jurisdiction over any party on whom the application has to be served, on any of the grounds mentioned in [<sup>F10</sup> paragraphs (a), (b), (c) or (k) of section 43(2) of the Courts Reform (Scotland) Act 2014].
- [<sup>F11</sup>(b) in relation to an order mentioned in subsection (1)( d ) above or an order varying any such order, the sheriff having jurisdiction under section 9, 10 or 12 of the Family Law Act 1986. ]

#### Textual Amendments

- F1** Words added by [Divorce \(Scotland\) Act 1976 \(c. 39, SIF 49:3\)](#), s. 12(1), **Sch. 1 para. 3**
- F2** Words added by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(1), 48(2)(3), **Sch. 1 para. 7**
- F3** Words added by [Family Law \(Scotland\) Act 1985 \(c. 37, SIF 49:3\)](#), ss. 28(1), 29(4), **Sch. 1 para. 5**
- F4** S. 8(1)(cc) inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 14(a)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F5** Words inserted by [Guardianship Act 1973 \(c. 29\)](#), **Sch. 5 para. 6**
- F6** Words repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(2), 69, **Sch. 2**
- F7** S. 8(5) repealed by [Divorce \(Scotland\) Act 1976 \(c. 39, SIF 49:3\)](#), **Sch. 2**
- F8** Words inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), **Sch. 1 para. 8(a)**
- F9** Words in s. 8(6)(a) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 14(b)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F10** Words in s. 8(6) substituted (1.4.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2015 \(S.S.I. 2015/150\)](#), art. 1, **Sch. para. 1**
- F11** Words added by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), **Sch. 1 para. 8(b)**

#### Modifications etc. (not altering text)

- C1** S. 8 extended by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), s. 10(2)

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**Changes to legislation:** *There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966, Section 8. (See end of Document for details)*

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**Marginal Citations**

- M1** 1938 c. 50.
- M2** 1964 c. 41.
- M3** 1861 c. 86.
- M4** 1958 c. 40.
- M5** 1973 c. 29.
- M6** 1937 c. 43.
- M7** 1933 c. 41.

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