



Inheritance (Provision for Family and Dependants) Act 1975

1975 CHAPTER 63

Special provisions relating to cases of divorce, separation etc.

14 Provision as to cases where no financial relief was granted in divorce proceedings etc.

- (1) Where, within twelve months from the date on which a decree of divorce or nullity of marriage has been made absolute or a decree of judicial separation has been granted, a party to the marriage dies and—
- (a) an application for a financial provision order under section 23 of the ^{M1}Matrimonial Causes Act 1973 or a property adjustment order under section 24 of that Act has not been made by the other party to that marriage, or
 - (b) such an application has been made but the proceedings thereon have not been determined at the time of the death of the deceased,

then, if an application for an order under section 2 of this Act is made by that other party, the court shall, notwithstanding anything in section 1 or section 3 of this Act, have power, if it thinks it just to do so, to treat that party for the purposes of that application as if the decree of divorce or nullity of marriage had not been made absolute or the decree of judicial separation had not been granted, as the case may be.

- (2) This section shall not apply in relation to a decree of judicial separation unless at the date of the death of the deceased the decree was in force and the separation was continuing.

Marginal Citations

M1 1973 c. 18.

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[^{F1}14A Provision as to cases where no financial relief was granted in proceedings for the dissolution etc. of a civil partnership

- (1) Subsection (2) below applies where—
- (a) a dissolution order, nullity order, separation order or presumption of death order has been made under Chapter 2 of Part 2 of the Civil Partnership Act 2004 in relation to a civil partnership,
 - (b) one of the civil partners dies within twelve months from the date on which the order is made, and
 - (c) either—
 - (i) an application for a financial provision order under Part 1 of Schedule 5 to that Act or a property adjustment order under Part 2 of that Schedule has not been made by the other civil partner, or
 - (ii) such an application has been made but the proceedings on the application have not been determined at the time of the death of the deceased.
- (2) If an application for an order under section 2 of this Act is made by the surviving civil partner, the court shall, notwithstanding anything in section 1 or section 3 of this Act, have power, if it thinks it just to do so, to treat the surviving civil partner as if the order mentioned in subsection (1)(a) above had not been made.
- (3) This section shall not apply in relation to a separation order unless at the date of the death of the deceased the separation order was in force and the separation was continuing.]

Textual Amendments

F1 S. 14A inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 71, 263(2), **Sch. 4 para. 20**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

15 Restriction imposed in divorce proceedings etc. on application under this Act.

- [^{F2}(1) On the grant of a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter the court, if it considers it just to do so, may, on the application of either party to the marriage, order that the other party to the marriage shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.

In this subsection “ the court ” means the High Court or [^{F3}the family court].]

- (2) In the case of a decree of divorce or nullity of marriage an order may be made under subsection (1) above before or after the decree is made absolute, but if it is made before the decree is made absolute it shall not take effect unless the decree is made absolute.
- (3) Where an order made under subsection (1) above on the grant of a decree of divorce or nullity of marriage has come into force with respect to a party to a marriage, then, on the death of the other party to that marriage, the court shall not entertain any application for an order under section 2 of this Act made by the first-mentioned party.
- (4) Where an order made under subsection (1) above on the grant of a decree of judicial separation has come into force with respect to any party to a marriage, then, if the other party to that marriage dies while the decree is in force and the separation is continuing,

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the court shall not entertain any application for an order under section 2 of this Act made by the first-mentioned party.

Textual Amendments

- F2** S. 15(1) substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **s. 8(1)**
- F3** Words in [s. 15\(1\)](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(3)**, **Sch. 10 para. 36(2)**; [S.I. 2014/954](#), **art. 2(d)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

[^{F4}15ZA Restriction imposed in proceedings for the dissolution etc. of a civil partnership on application under this Act

- (1) On making a dissolution order, nullity order, separation order or presumption of death order under Chapter 2 of Part 2 of the Civil Partnership Act 2004, or at any time after making such an order, the court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.
- (2) In subsection (1) above “ the court ” means the High Court or [^{F5}the family court] .
- (3) In the case of a dissolution order, nullity order or presumption of death order (“ the main order ”) an order may be made under subsection (1) above before (as well as after) the main order is made final, but if made before the main order is made final it shall not take effect unless the main order is made final.
- (4) Where an order under subsection (1) above made in connection with a dissolution order, nullity order or presumption of death order has come into force with respect to a civil partner, then, on the death of the other civil partner, the court shall not entertain any application for an order under section 2 of this Act made by the surviving civil partner.
- (5) Where an order under subsection (1) above made in connection with a separation order has come into force with respect to a civil partner, then, if the other civil partner dies while the separation order is in force and the separation is continuing, the court shall not entertain any application for an order under section 2 of this Act made by the surviving civil partner.]

Textual Amendments

- F4** S. 15ZA inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 71, 263(2)**, **Sch. 4 para. 21**; [S.I. 2005/3175](#), **art. 2(1)**, **Sch. 1**
- F5** Words in [s. 15ZA\(2\)](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(3)**, **Sch. 10 para. 36(3)**; [S.I. 2014/954](#), **art. 2(d)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

[^{F6}15A Restriction imposed in proceedings under Matrimonial and Family Proceedings Act 1984 on application under this Act.

- (1) On making an order under section 17 of the Matrimonial and Family Proceedings Act 1984 (orders for financial provision and property adjustment following overseas divorces, etc.) the court, if it considers it just to do so, may, on the application of either

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party to the marriage, order that the other party to the marriage shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.

In this subsection “ the court ” means the High Court or [^{F7}the family court] .

- (2) Where an order under subsection (1) above has been made with respect to a party to a marriage which has been dissolved or annulled, then, on the death of the other party to that marriage, the court shall not entertain an application under section 2 of this Act made by the first-mentioned party.
- (3) Where an order under subsection (1) above has been made with respect to a party to a marriage the parties to which have been legally separated, then, if the other party to the marriage dies while the legal separation is in force, the court shall not entertain an application under section 2 of this Act made by the first-mentioned party.]

Textual Amendments

- F6** S. 15A inserted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 25(3)
- F7** Words in s. 15A(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 36\(4\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

[^{F8}15B] **Restriction imposed in proceedings under Schedule 7 to the Civil Partnership Act 2004 on application under this Act**

- (1) On making an order under paragraph 9 of Schedule 7 to the Civil Partnership Act 2004 (orders for financial provision, property adjustment and pension-sharing following overseas dissolution etc. of civil partnership) the court, if it considers it just to do so, may, on the application of either of the civil partners, order that the other civil partner shall not on the death of the applicant be entitled to apply for an order under section 2 of this Act.
- (2) In subsection (1) above “ the court ” means the High Court or [^{F9}the family court] .
- (3) Where an order under subsection (1) above has been made with respect to one of the civil partners in a case where a civil partnership has been dissolved or annulled, then, on the death of the other civil partner, the court shall not entertain an application under section 2 of this Act made by the surviving civil partner.
- (4) Where an order under subsection (1) above has been made with respect to one of the civil partners in a case where civil partners have been legally separated, then, if the other civil partner dies while the legal separation is in force, the court shall not entertain an application under section 2 of this Act made by the surviving civil partner.]

Textual Amendments

- F8** S. 15B inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 71, 263(2), [Sch. 4 para. 22](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)
- F9** Words in s. 15B(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 36\(5\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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16 Variation and discharge of secured periodical payments orders made under Matrimonial Causes Act 1973.

- (1) Where an application for an order under section 2 of this Act is made to the court by any person who was at the time of the death of the deceased entitled to payments from the deceased under a secured periodical payments order made under the ^{M2}Matrimonial Causes Act 1973 [^{F10}or Schedule 5 to the Civil Partnership Act 2004], then, in the proceedings on that application, the court shall have power, if an application is made under this section by that person or by the personal representative of the deceased, to vary or discharge that periodical payments order or to revive the operation of any provision thereof which has been suspended under section 31 of that Act [^{F11}of 1973 or Part 11 of that Schedule].
- (2) In exercising the powers conferred by this section the court shall have regard to all the circumstances of the case, including any order which the court proposes to make under section 2 or section 5 of this Act and any change (whether resulting from the death of the deceased or otherwise) in any of the matters to which the court was required to have regard when making the secured periodical payments order.
- (3) The powers exercisable by the court under this section in relation to an order shall be exercisable also in relation to any instrument executed in pursuance of the order.

Textual Amendments

- F10** Words in s. 16(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 71, 263\(2\), Sch. 4 para. 23\(a\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F11** Words in s. 16(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 71, 263\(2\), Sch. 4 para. 23\(b\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

Marginal Citations

- M2** 1973 c. 18.

17 Variation and revocation of maintenance agreements.

- (1) Where an application for an order under section 2 of this Act is made to the court by any person who was at the time of the death of the deceased entitled to payments from the deceased under a maintenance agreement which provided for the continuation of payments under the agreement after the death of the deceased, then, in the proceedings on that application, the court shall have power, if an application is made under this section by that person or by the personal representative of the deceased, to vary or revoke that agreement.
- (2) In exercising the powers conferred by this section the court shall have regard to all the circumstances of the case, including any order which the court proposes to make under section 2 or section 5 of this Act and any change (whether resulting from the death of the deceased or otherwise) in any of the circumstances in the light of which the agreement was made.
- (3) If a maintenance agreement is varied by the court under this section the like consequences shall ensue as if the variation had been made immediately before the death of the deceased by agreement between the parties and for valuable consideration.

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- (4) In this section “maintenance agreement”, in relation to a deceased person, means any agreement made, whether in writing or not and whether before or after the commencement of this Act, by the deceased with any person with whom he ^{F12}formed a marriage or civil partnership], being an agreement which contained provisions governing the rights and liabilities towards one another when living separately of the parties to that marriage ^{F13}or of the civil partners](whether or not the marriage ^{F14}or civil partnership] has been dissolved or annulled) in respect of the making or securing of payments or the disposition or use of any property, including such rights and liabilities with respect to the maintenance or education of any child, whether or not a child of the deceased or a person who was treated by the deceased as a child of the family in relation to that marriage ^{F14}or civil partnership].

Textual Amendments

- F12** Words in s. 17(4) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 71, 263\(2\), Sch. 4 para. 24\(a\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F13** Words in s. 17(4) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 71, 263\(2\), Sch. 4 para. 24\(b\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1
- F14** Words in s. 17(4) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 71, 263\(2\), Sch. 4 para. 24\(c\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

18 Availability of court’s powers under this Act in applications under ss. 31 and 36 of the Matrimonial Causes Act 1973.

- (1) Where—
- a person against whom a secured periodical payments order was made under the ^{M3}Matrimonial Causes Act 1973 has died and an application is made under section 31(6) of that Act for the variation or discharge of that order or for the revival of the operation of any provision thereof which has been suspended, or
 - a party to a maintenance agreement within the meaning of section 34 of that Act has died, the agreement being one which provides for the continuation of payments thereunder after the death of one of the parties, and an application is made under section 36(1) of that Act for the alteration of the agreement under section 35 thereof,

the court shall have power to direct that the application made under the said section 31(6) or 36(1) shall be deemed to have been accompanied by an application for an order under section 2 of this Act.

- (2) Where the court gives a direction under subsection (1) above it shall have power, in the proceedings on the application under the said section 31(6) or 36(1), to make any order which the court would have had power to make under the provisions of this Act if the application under the said section 31(6) or 36(1), as the case may be, had been made jointly with an application for an order under the said section 2; and the court shall have power to give such consequential directions as may be necessary for enabling the court to exercise any of the powers available to the court under this Act in the case of an application for an order under section 2.
- (3) Where an order made under section 15(1) of this Act is in force with respect to a party to a marriage, the court shall not give a direction under subsection (1) above with respect to any application made under the said section 31(6) or 36(1) by that party on the death of the other party.

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Marginal Citations

M3 1973 c. 18.

[^{F15}18A Availability of court's powers under this Act in applications under paragraphs 60 and 73 of Schedule 5 to the Civil Partnership Act 2004

(1) Where—

- (a) a person against whom a secured periodical payments order was made under Schedule 5 to the Civil Partnership Act 2004 has died and an application is made under paragraph 60 of that Schedule for the variation or discharge of that order or for the revival of the operation of any suspended provision of the order, or
- (b) a party to a maintenance agreement within the meaning of Part 13 of that Schedule has died, the agreement being one which provides for the continuation of payments under the agreement after the death of one of the parties, and an application is made under paragraph 73 of that Schedule for the alteration of the agreement under paragraph 69 of that Schedule,

the court shall have power to direct that the application made under paragraph 60 or 73 of that Schedule shall be deemed to have been accompanied by an application for an order under section 2 of this Act.

(2) Where the court gives a direction under subsection (1) above it shall have power, in the proceedings on the application under paragraph 60 or 73 of that Schedule, to make any order which the court would have had power to make under the provisions of this Act if the application under that paragraph had been made jointly with an application for an order under section 2 of this Act; and the court shall have power to give such consequential directions as may be necessary for enabling the court to exercise any of the powers available to the court under this Act in the case of an application for an order under section 2.

(3) Where an order made under section 15ZA(1) of this Act is in force with respect to a civil partner, the court shall not give a direction under subsection (1) above with respect to any application made under paragraph 60 or 73 of that Schedule by that civil partner on the death of the other civil partner.]

Textual Amendments

F15 S. 18A inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 71, 263(2), Sch. 4 para. 25; S.I. 2005/3175, art. 2(1), Sch. 1

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