



# Family Law (Scotland) Act 1985

## 1985 CHAPTER 37

*Financial provision on divorce, etc.*

### **11 Factors to be taken into account**

- (1) In applying the principles set out in section 9 of this Act, the following provisions of this section shall have effect.
- (2) For the purposes of section 9(1)(b) of this Act, the court shall have regard to the extent to which—
  - (a) the economic advantages or disadvantages sustained by either party have been balanced by the economic advantages or disadvantages sustained by the other party, and
  - (b) any resulting imbalance has been or will be corrected by a sharing of the value of the matrimonial property or otherwise.
- (3) For the purposes of section 9(1)(c) of this Act, the court shall have regard to—
  - (a) any decree or arrangement for aliment for the child;
  - (b) any expenditure or loss of earning capacity caused by the need to care for the child ;
  - (c) the need to provide suitable accommodation for the child;
  - (d) the age and health of the child;
  - (e) the educational, financial and other circumstances of the child;
  - (f) the availability and cost of suitable child-care facilities or services;
  - (g) the needs and resources of the parties; and
  - (h) all the other circumstances of the case.
- (4) For the purposes of section 9(1)(d) of this Act, the court shall have regard to—
  - (a) the age, health and earning capacity of the party who is claiming the financial provision;
  - (b) the duration and extent of the dependence of that party prior to divorce;
  - (c) any intention of that party to undertake a course of education or training;
  - (d) the needs and resources of the parties; and

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*Status: This is the original version (as it was originally enacted).*

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- (e) all the other circumstances of the case.
- (5) For the purposes of section 9(1)(e) of this Act, the court shall have regard to—
- (a) the age, health and earning capacity of the party who is claiming the financial provision ;
  - (b) the duration of the marriage;
  - (c) the standard of living of the parties during the marriage ;
  - (d) the needs and resources of the parties ; and
  - (e) all the other circumstances of the case.
- (6) In having regard under subsections (3) to (5) above to all the other circumstances of the case, the court may, if it thinks fit, take account of any support, financial or otherwise, given by the party who is to make the financial provision to any person whom he maintains as a dependant in his household whether or not he owes an obligation of aliment to that person.
- (7) In applying the principles set out in section 9 of this Act, the court shall not take account of the conduct of either party unless—
- (a) the conduct has adversely affected the financial resources which are relevant to the decision of the court on a claim for financial provision ; or
  - (b) in relation to section 9(1)(d) or (e), it would be manifestly inequitable to leave the conduct out of account.