



Family Law (Scotland) Act 1985

1985 CHAPTER 37

Aliment

2 Actions for aliment

- (1) A claim for aliment only (whether or not expenses are also sought) may be made, against any person owing an obligation of aliment, in the Court of Session or the sheriff court.
- (2) Unless the court considers it inappropriate in any particular case, a claim for aliment may also be made, against any person owing an obligation of aliment, in proceedings—
 - (a) for divorce, separation, declarator of marriage or declarator of nullity of marriage ;
 - (b) relating to orders for financial provision ;
 - (c) concerning rights and obligations in relation to children ;
 - (d) concerning parentage or legitimacy ;
 - (e) of any other kind, where the court considers it appropriate to include a claim for aliment.
- (3) In this Act " action for aliment" means a claim for aliment in proceedings referred to in subsection (1) or (2) above.
- (4) An action for aliment may be brought—
 - (a) by a person (including a child) to whom the obligation of aliment is owed;
 - (b) by the curator bonis of an incapax or the curator of a minor who is an incapax ;
 - (c) on behalf of a child under the age of 18 years, by—
 - (i) the father or mother of the child;
 - (ii) the tutor of a pupil;
 - (iii) a person entitled to, seeking or having custody or care of a child.
- (5) A woman (whether married or not) may bring an action for aliment on behalf of her unborn child as if the child had been born, but no such action shall be heard or disposed of prior to the birth of the child.

Status: This is the original version (as it was originally enacted).

- (6) It shall be competent to bring an action for aliment, notwithstanding that the person for or on behalf of whom aliment is being claimed is living in the same household as the defender.
- (7) It shall be a defence to an action for aliment brought by virtue of subsection (6) above that the defender is fulfilling the obligation of aliment, and intends to continue doing so.
- (8) It shall be a defence to an action for aliment by or on behalf of a person other than a child under the age of 16 years that the defender is making an offer, which it is reasonable to expect the person concerned to accept, to receive that person into his household and to fulfil the obligation of aliment.
- (9) For the purposes of subsection (8) above, in considering whether it is reasonable to expect a person to accept an offer, the court shall have regard among other things to any conduct, decree or other circumstances which appear to the court to be relevant: but the fact that a husband and wife have agreed to live apart shall not of itself be regarded as making it unreasonable to expect a person to accept such an offer.
- (10) A person bringing an action for aliment under subsection (4)(c) above may give a good receipt for aliment paid under the decree in the action.