



# Family Law (Scotland) Act 1985

## 1985 CHAPTER 37

### *Financial provision on divorce, etc.*

#### **9 Principles to be applied.**

- (1) The principles which the court shall apply in deciding what order for financial provision, if any, to make are that—
- (a) the net value of the matrimonial property should be shared fairly between the parties to the marriage [<sup>F1</sup>or as the case may be the net value of the partnership property should be so shared between the partners in the civil partnership];
  - (b) fair account should be taken of any economic advantage derived by either [<sup>F2</sup>person] from contributions by the other, and of any economic disadvantage suffered by either [<sup>F2</sup>person] in the interests of the other [<sup>F2</sup>person] or of the family;
  - (c) any economic burden of caring,
    - [<sup>F3</sup>(i) after divorce, for a child of the marriage under the age of 16 years
    - [<sup>F4</sup>(ii) after dissolution of the civil partnership, for a child under that age who has been accepted by both partners as a child of the family [<sup>F5</sup>or in respect of whom they are, by virtue of sections 33 and 42 of the Human Fertilisation and Embryology Act 2008, the parents].]should be shared fairly between the [<sup>F6</sup>persons];
  - (d) a [<sup>F7</sup>person] who has been dependent to a substantial degree on the financial support of the other [<sup>F7</sup>person] should be awarded such financial provision as is reasonable to enable him to adjust, over a period of not more than three years from
    - [<sup>F8</sup>(i) the date of the decree of divorce, to the loss of that support on divorce,
    - [<sup>F9</sup>(ii) the date of the decree of dissolution of the civil partnership, to the loss of that support on dissolution,]
  - (e) a [<sup>F10</sup>person] who at the time of the divorce [<sup>F11</sup>or of the dissolution of the civil partnership,] seems likely to suffer serious financial hardship as a result of the divorce [<sup>F11</sup>or dissolution] should be awarded such financial provision as is reasonable to relieve him of hardship over a reasonable period.

*Status: Point in time view as at 01/09/2009. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 9. (See end of Document for details)*

(2) In subsection (1)(b) above and section 11(2) of this Act—

“economic advantage” means advantage gained whether before or during the marriage [<sup>F12</sup>or civil partnership] and includes gains in capital, in income and in earning capacity, and “economic disadvantage” shall be construed accordingly;

“contributions” means contributions made whether before or during the marriage [<sup>F12</sup>or civil partnership]; and includes indirect and non-financial contributions and, in particular, any such contribution made by looking after the family home or caring for the family.

#### Textual Amendments

- F1** Words in s. 9(1)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(a\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F2** Word in s. 9(1)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(b\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F3** S. 9(1)(c)(i) formed (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(c\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F4** S. 9(1)(c)(ii) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(c\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F5** Words in s. 9(1)(c)(ii) inserted (6.4.2009 for specified purposes, 1.9.2009 in so far as not already in force) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), s. 68(2), [Sch. 6 para. 46](#); S.I. 2009/479, art. 6(1)(e)(2) (with art. 7Sch.)
- F6** Word in s. 9(1)(c) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(c\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F7** Words in s. 9(1)(d) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(d\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F8** S. 9(1)(d)(i) formed (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(d\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F9** S. 9(1)(d)(ii) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(d\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F10** Word in s. 9(1)(e) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(e\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F11** Words in s. 9(1)(e) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(2\)\(e\)](#); S.S.I. 2005/604, arts. 2(c), 4
- F12** Words in s. 9(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), [Sch. 28 para. 15\(3\)](#); S.S.I. 2005/604, arts. 2(c), 4

**Status:**

Point in time view as at 01/09/2009. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Section 9.