

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: Civil Partnership Act 2004, Paragraph 60 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

#### FINANCIAL RELIEF IN THE HIGH COURT OR A COUNTY COURT ETC.

#### PART 11

##### VARIATION, DISCHARGE ETC. OF CERTAIN ORDERS FOR FINANCIAL RELIEF

##### *Variation of secured periodical payments order where person liable has died*

- 60 (1) This paragraph applies if the person liable to make payments under a secured periodical payments order has died.
- (2) Subject to sub-paragraph (3), an application under this Part relating to the order (and to any sale of property order which requires the proceeds of sale of property to be used for securing those payments) may be made by—
- (a) the person entitled to payments under the periodical payments order, or
  - (b) the personal representatives of the deceased person.
- (3) No such application may be made without the leave of the court after the end of 6 months from the date on which representation in regard to the estate of that person is first taken out.
- (4) The personal representatives of the person who has died are not liable for having distributed any part of the estate of the deceased after the end of the 6 month period on the ground that they ought to have taken into account the possibility that the court might allow an application under this paragraph to be made after that period by the person entitled to payments under the order.
- (5) Sub-paragraph (4) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.
- (6) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out—
- (a) a grant limited to settled land or to trust property is to be disregarded, and
  - (b) a grant limited to real estate or to personal estate is to be disregarded unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

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