

SCHEDULES

SCHEDULE 5

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

PART 13

CONSENT ORDERS AND MAINTENANCE AGREEMENTS

Alteration of agreements by court after death of one party

- 73 (1) This paragraph applies if—
- (a) a maintenance agreement provides for the continuation of payments under the agreement after the death of one of the parties, and
 - (b) that party (“A”) dies domiciled in England and Wales.
- (2) Subject to sub-paragraph (4), the surviving party or A’s personal representatives may apply to the High Court or a county court for an order under paragraph 69.
- (3) If a maintenance agreement is altered by a court on an application made under sub-paragraph (2), the same consequences follow as if the alteration had been made immediately before the death by agreement between the parties and for valuable consideration.
- (4) An application under this paragraph may not, without the leave of the High Court or a county court, be made after the end of 6 months from the date on which representation in regard to A’s estate is first taken out.
- (5) A’s personal representatives are not liable for having distributed any part of A’s estate after the end of the 6 month period on the ground that they ought to have taken into account the possibility that a court might allow an application by virtue of this paragraph to be made by the surviving party after that period.
- (6) Sub-paragraph (5) 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.
- (7) Paragraph 60(6) applies for the purposes of sub-paragraph (4) as it applies for the purposes of paragraph 60(3).