



Family Law (Scotland) Act 1985

1985 CHAPTER 37

General

27 Interpretation.

(1) In this Act, unless the context otherwise requires—

“action” means an action brought after the commencement of this Act;

“action for aliment” has the meaning assigned to it by section 2(3) of this Act;

“aliment” does not include *alimentpendente lite* or interim aliment under section 6 of this Act;

“caravan” means a caravan which is mobile or affixed to the land;

“child” includes [^{F1}a child whether or not his parents have ever been married to one another], and any reference to the child of a marriage (whether or not subsisting) includes a child (other than a child who has been boarded out with the parties, or one of them, by a local or other public authority or a voluntary organisation) who has been accepted by the parties as a child of the family;

[^{F2}“child support maintenance” has the meaning assigned to it by section 3(6) of the Child Support Act 1991;]

“the court” means the Court of Session or the sheriff, as the case may require;

“decree” in an action for aliment includes an order of the court awarding aliment;

“family” includes a one-parent family;

“incidental order” has the meaning assigned to it by section 14(2) of this Act;

[^{F2}“maintenance assessment” has the meaning assigned to it by section 54 of the Child Support Act 1991;]

“marriage”, in relation to an action for declarator of nullity of marriage, means purported marriage;

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

“matrimonial home” has the meaning assigned to it by section 22 of the ^{M1}Matrimonial Homes (Family Protection) (Scotland) Act 1981 [^{F3}as amended by section 13(10) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985];

“needs” means present and foreseeable needs;

“obligation of aliment” shall be construed in accordance with section 1(2) of this Act;

“order for financial provision” means an order under section 8(2) of this Act and, in sections 18(1) and 22(c) of this Act, also includes an order under section 5(2) of the ^{M2}Divorce (Scotland) Act 1976;

“party to a marriage” and “party to the marriage” include a party to a marriage which has been terminated or annulled;

“property” in sections 8, 12, 13 and 15 of this Act does not include a tenancy transferable under section 13 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981;

“resources” means present and foreseeable resources;

“voluntary organisation” means a body, other than a local or other public authority, the activities of which are not carried on for profit.

- (2) For the purposes of this Act, the parties to a marriage shall be held to cohabit with one another only when they are in fact living together as man and wife.

Textual Amendments

- F1** Words substituted by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\), ss. 10\(1\), 11\(4\), Sch. 1 para. 21](#)
- F2** Definitions in s. 27(1) inserted (5.4.1993) by [S.I. 1993/660, art. 2\(6\)](#).
- F3** Words added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\), ss. 23, 59, 60\(6\), Sch 2 para. 31](#)

Marginal Citations

- M1** 1981 c. 59.
- M2** 1976 c. 39.

28 Amendments, repeals and savings.

- (1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out therein.
- (2) The enactments specified in columns 1 and 2 of Schedule 2 to this Act are repealed to the extent specified in column 3 of that Schedule.
- (3) Nothing in subsection (2) above shall affect the operation of section 5 (orders for financial provision) of the ^{M3}Divorce (Scotland) Act 1976 in relation to an action for divorce brought before the commencement of this Act; but in the continued operation of that section the powers of the court—
- (a) to make an order for payment of periodical allowance under subsection (2) thereof; and
 - (b) to vary such an order under subsection (4) thereof,
- shall include power to make such an order for a definite or an indefinite period or until the happening of a specified event.

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Extent Information

- E1** [Sch. 1](#): so much of s. 28 and Sch. 1 as affects the operation of [1950 c. 37](#) and [1972 c. 18](#) extends to England, Wales, Scotland and Northern Ireland, see [s. 29\(4\)](#)

Marginal Citations

- M3** [1976 c. 39](#).

29 Citation, commencement and extent.

- (1) This Act may be cited as the Family Law (Scotland) Act 1985.
- (2) This Act shall come into operation on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different purposes.
- (3) An order under subsection (2) above may contain such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force (whether wholly or partly) by the order.
- (4) So much of section 28 of, and Schedule 1 to, this Act as affects the operation of the ^{M4}Maintenance Orders Act 1950 and the ^{M5}Maintenance Orders (Reciprocal Enforcement) Act 1972 shall extend to England and Wales and to Northern Ireland as well as to Scotland, but save as aforesaid this Act shall extend to Scotland only.

Modifications etc. (not altering text)

- C1** [S. 29\(2\)](#): power of appointment conferred by s. 29(2) wholly exercised: [S.I. 1986/1237](#), 1988/1887

Marginal Citations

- M4** [1950 c. 37](#).
M5 [1972 c. 18](#).

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