
Changes to legislation: Children Act 1989, Cross Heading: Variation of orders for secured periodical payments after death of parent is up to date with all changes known to be in force on or before 18 April 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) View outstanding changes

SCHEDULES

SCHEDULE 1

FINANCIAL PROVISION FOR CHILDREN

Variation of orders for secured periodical payments after death of parent

- 7 (1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the deceased parent.
- (2) No application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.
- (3) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.
- (4) Sub-paragraph (3) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.
- (5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 6(1) shall include the changed circumstances resulting from the death of the parent.
- [^{F1}(6) The following are to be left out of account when considering for the purposes of sub-paragraph (2) when representation was first taken out—
- (a) a grant limited to settled land or to trust property,
 - (b) any other grant that does not permit any of the estate to be distributed,
 - (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
 - (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (6A)).
- (6A) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (6), but is to be taken as dated on the date of sealing.]
- (7) In this paragraph “secured periodical payments order” means an order for secured periodical payments under paragraph 1(2)(b).

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Textual Amendments

- F1** Sch. 1 para. 7(6)(6A) substituted for Sch. 1 para. 7(6) (1.10.2014) by [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 3 para. 4\(2\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2
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Commencement Information

- I1** Sch. 1 para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 8(4)(k) inserted by 2021 c. 17 s. 52(1)
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)