

Dunn and Baker Family Team

A13 - Child financial orders – Schedule 1 Children Act 1989

Where parents were either not married, or who were not civil partners, and therefore not able to seek financial relief under matrimonial or civil partnership legislation, **Schedule 1 is used** to apply for orders for children, for capital, for property settlement/transfer, and sometimes even child support.

Adult or near-adult children of such relationships can also seek provision for themselves. No great significance is attached to the issue of whether the pregnancy was planned or not, or even necessarily whether the parties ever cohabited. However the legislation does not apply to step-children.

(Assuming just for the benefit of illustration that the mother is the child's carer)

Capital provision

The court recognises that a child is entitled to be brought up in circumstances which bear some sort of relationship to the father's current resources and the father's present standard of living.

For example a wealthy father might be required to purchase a house for the use of the child, to be held on trust and to revert to the father upon the child reaching a certain age or completing full-time secondary or tertiary education. This might include the cost of purchasing and moving into the home; carrying out essential works; furnishing and equipping the house; provision of a family car during the minority of the child; and other reasonable child expenses, sometimes even including legal costs.

Income provision

Where the father is so wealthy that the sum provided for by the CSA bears no relationship to the father's resources and way of life, maintenance in a substantially greater sum than the CSA might award can be sought under the this legislation too. The lifestyle to which the child and mother has been accustomed to, could impact on the evaluation of the child's needs.

For example a wealthy father may have to pay maintenance to the mother for the benefit of the child, allowing the mother to have control of a budget that reflects her position and that of the father, socially and financially. However the budget is NOT to meet her own personal aspirations which fall outside her needs as the child's carer, or to provide her with surplus funds.

Nature of the Order

As the order is purely for the benefit of the child:

- a) Cohabitation / remarriage of the mother would not result in the reversion of the home settled on the child, as this would not affect the child's need for her mother to care for him or her.
- b) The mother will be entitled to keep part of her own salary out of calculation, as required for her own reasonable budgetary needs.
- c) Because of the changing needs of a developing child, more than one order can be sought by the mother.
- d) Property reverts back to the father once a child's dependence ends.

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