



Family Law Act 1986

1986 CHAPTER 55

PART I

CHILD CUSTODY

CHAPTER III

JURISDICTION OF COURTS IN SCOTLAND

16 Tutor and curatory.

- (1) Subject to subsections (2) and (3) below, an application made after the commencement of this Part for an order relating to the [F¹guardianship] of a [F¹child] may be entertained by—
 - (a) the Court of Session if, on the date of the application, the pupil or minor is habitually resident in Scotland,
 - (b) the sheriff if, on the date of the application, the pupil or minor is habitually resident in the sheriffdom.
- (2) Subsection (1) above shall not apply to an application for the appointment or removal of a [F²judicial factor] or of a curator bonis or any application made by such factor or curator.
- (3) Subsection (1) above is without prejudice to any other ground of jurisdiction on which the Court of Session or the sheriff may entertain an application mentioned therein.
- (4) Provision may be made by act of sederunt prescribing, in relation to orders relating to the [F¹guardianship] of a [F¹child], what constitutes an application for the purposes of this Chapter.

Changes to legislation: Family Law Act 1986, Section 16 is up to date with all changes known to be in force on or before 17 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](#)

Textual Amendments

- F1** Words in s. 16(1)(4) substituted (25. 9. 1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), [ss.10\(1\), 11\(2\)](#), [Sch. 1 para. 45](#).
- F2** Words in s. 16(2) substituted (25. 9. 1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), [ss. 10\(1\), 11\(2\)](#), [Sch. 1 para. 45](#).

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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. 1(1)(ca)-(cc) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 7](#)
- s. 2A(1)(1A) substituted for s. 2(1) by [1996 c. 27 Sch. 8 para. 37\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))
- s. 19(1A)-(1C) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 8](#)
- s. 29A inserted by [2020 asp 16 s. 29\(2\)](#)
- s. 38(4) inserted by [1996 c. 27 Sch. 8 para. 37\(9\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))