



# Age of Legal Capacity (Scotland) Act 1991

## 1991 CHAPTER 50

### 1 Age of legal capacity.

- (1) As from the commencement of this Act—
  - (a) a person under the age of 16 years shall, subject to section 2 below, have no legal capacity to enter into any transaction;
  - (b) a person of or over the age of 16 years shall have legal capacity to enter into any transaction.
- (2) Subject to section 8 below, any reference in any enactment to a pupil (other than in the context of education or training) or to a person under legal disability or incapacity by reason of nonage shall, insofar as it relates to any time after the commencement of this Act, be construed as a reference to a person under the age of 16 years.
- (3) Nothing in this Act shall—
  - (a) apply to any transaction entered into before the commencement of this Act;
  - (b) confer any legal capacity on any person who is under legal disability or incapacity other than by reason of nonage;
  - (c) affect the delictual or criminal responsibility of any person;
  - (d) affect any enactment which lays down an age limit expressed in years for any particular purpose;
  - (e) prevent any person under the age of 16 years from receiving or holding any right, title or interest;
  - (f) affect any existing rule of law or practice whereby—
    - (i) any civil proceedings may be brought or defended, or any step in civil proceedings may be taken, in the name of a person under the age of 16 years [<sup>F1</sup>in relation to whom there is no person entitled to act as his legal representative (within the meaning of Part I of the Children (Scotland) Act 1995), or where there is such a person] is unable (whether by reason of conflict of interest or otherwise) or refuses to bring or defend such proceedings or take such step;

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*Status: Point in time view as at 01/11/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Age of Legal Capacity (Scotland) Act 1991, Section 1. (See end of Document for details)*

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- (ii) the court may, in any civil proceedings, appoint a curator ad litem to a person under the age of 16 years;
  - (iii) the court may, in relation to the approval of an arrangement under section 1 of the <sup>M1</sup>Trusts (Scotland) Act 1961, appoint a curator ad litem to a person of or over the age of 16 years but under the age of 18 years;
  - (iv) the court may appoint a curator bonis to any person;
  - (g) prevent any person under the age of 16 years from [<sup>F2</sup>exercising parental responsibilities and parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to any child of his.]
- (4) Any existing rule of law relating to the legal capacity of minors and pupils which is inconsistent with the provisions of this Act shall cease to have effect.
- (5) Any existing rule of law relating to reduction of a transaction on the ground of minority and lesion shall cease to have effect.

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**Textual Amendments**

- F1** Words in s. 1(3)(f)(i) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 53(2)(a)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F2** Words in s. 1(3)(g) substituted for s. 1(3)(g)(i)(ii) (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 53(2)(b)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
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**Marginal Citations**

- M1** 1961 c. 57.

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