# Age of Legal Capacity (Scotland) Act 1991

**1991 CHAPTER 50**

**2 Exceptions to general rule**

(1) A person under the age of 16 years shall have legal capacity to enter into a transaction—

(a) of a kind commonly entered into by persons of his age and circumstances, and

(b) on terms which are not unreasonable.

(2) A person of or over the age of 12 years shall have testamentary capacity, including legal capacity to exercise by testamentary writing any power of appointment.

(3) A person of or over the age of 12 years shall have legal capacity to consent to the making of an adoption order in relation to him; and accordingly—

(a) for section 12(8) (adoption orders) of the Adoption (Scotland) Act 1978 there shall be substituted the following subsection—

"(8) An adoption order shall not be made in relation to a child of or over the age of 12 years unless with the child's consent; except that, where the court is satisfied that the child is incapable of giving his consent to the making of the order, it may dispense with that consent."; and

(b) for section 18(8) (freeing child for adoption) of that Act there shall be substituted the following subsection—

"(8) An order under this section shall not be made in relation to a child of or over the age of 12 years unless with the child's consent; except that where the court is satisfied that the child is incapable of giving his consent to the making of the order, it may dispense with that consent."

(4) A person under the age of 16 years shall have legal capacity to consent on his own behalf to any surgical, medical or dental procedure or treatment where, in the opinion of a qualified medical practitioner attending him, he is capable of understanding the nature and possible consequences of the procedure or treatment.

(5) Any transaction—

(a) which a person under the age of 16 years purports to enter into after the commencement of this Act, and

(b) in relation to which that person does not have legal capacity by virtue of this section,

shall be void.