



Children (Scotland) Act 1995

1995 CHAPTER 36

PART I

PARENTS, CHILDREN AND GUARDIANS

Administration of child's property

9 Safeguarding of child's property

- (1) Subject to section 13 of this Act, this section applies where—
 - (a) property is owned by or due to a child;
 - (b) the property is held by a person other than a parent or guardian of the child; and
 - (c) but for this section, the property would be required to be transferred to a parent having parental responsibilities in relation to the child or to a guardian for administration by that parent or guardian on behalf of the child.
- (2) Subject to subsection (4) below, where this section applies and the person holding the property is an executor or trustee, then—
 - (a) if the value of the property exceeds £20,000, he shall; or
 - (b) if that value is not less than £5,000 and does not exceed £20,000, he may,apply to the Accountant of Court for a direction as to the administration of the property.
- (3) Subject to subsection (4) below, where this section applies and the person holding the property is a person other than an executor or trustee, then, if the value of the property is not less than £5,000, that person may apply to the Accountant of Court for a direction as to the administration of the property.
- (4) Where the parent or guardian mentioned in subsection (1)(c) above has been appointed a trustee under a trust deed to administer the property concerned, subsections (2) and (3) above shall not apply, and the person holding the property shall transfer it to the parent or guardian.
- (5) On receipt of an application under subsection (2) or (3) above, the Accountant of Court may do one, or (in so far as the context admits) more than one, of the following—

Status: This is the original version (as it was originally enacted).

- (a) apply to the court for the appointment of a judicial factor (whether or not the parent or guardian mentioned in subsection (1)(c) above) to administer all or part of the property concerned and in the event of the court making such an appointment shall direct that the property, or as the case may be part, concerned be transferred to the factor;
 - (b) direct that all or part of the property concerned be transferred to himself;
 - (c) direct that all or, in a case where the parent or guardian so mentioned has not been appointed by virtue of paragraph (a) above, part of the property concerned be transferred to the parent or guardian,
- to be administered on behalf of the child.
- (6) A direction under subsection (5)(c) above may include such conditions as the Accountant of Court considers appropriate, including in particular a condition—
 - (a) that in relation to the property concerned no capital expenditure shall be incurred without his approval; or
 - (b) that there shall be exhibited annually to him the securities and bank books which represent the capital of the estate.
 - (7) A person who has applied under subsection (2) or (3) above for a direction shall not thereafter transfer the property concerned except in accordance with a direction under subsection (5) above.
 - (8) The Secretary of State may from time to time prescribe a variation in any sum referred to in subsections (2) and (3) above.
 - (9) In this section “child” means a person under the age of sixteen years who is habitually resident in Scotland.

10 Obligations and rights of person administering child’s property

- (1) A person acting as a child’s legal representative in relation to the administration of the child’s property—
 - (a) shall be required to act as a reasonable and prudent person would act on his own behalf; and
 - (b) subject to any order made under section 11 of this Act, shall be entitled to do anything which the child, if of full age and capacity, could do in relation to that property;and subject to subsection (2) below, on ceasing to act as legal representative, shall be liable to account to the child for his intromissions with the child’s property.
- (2) No liability shall be incurred by virtue of subsection (1) above in respect of funds which have been used in the proper discharge of the person’s responsibility to safeguard and promote the child’s health, development and welfare.