



# Children (Scotland) Act 1995

## 1995 CHAPTER 36

### PART II

#### PROMOTION OF CHILDREN'S WELFARE BY LOCAL AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

### CHAPTER I

#### SUPPORT FOR CHILDREN AND THEIR FAMILIES

##### *Miscellaneous and General*

#### **36 Welfare of certain children in hospitals and nursing homes etc.**

- (1) Where a child is provided with residential accommodation by a person mentioned in subsection (3) below and it appears to the person that the child either—
  - (a) has had no parental contact for a continuous period of three months or more; or
  - (b) is likely to have no parental contact for a period which, taken with any immediately preceding period in which the child has had no such contact, will constitute a continuous period of three months or more,the person shall (whether or not the child has been, or will be, so accommodated throughout the continuous period) so notify the local authority in whose area the accommodation is provided.
- (2) A local authority receiving notification under subsection (1) above shall—
  - (a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is so accommodated; and
  - (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.
- (3) The persons are—

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**Changes to legislation:** *Children (Scotland) Act 1995, Section 36 is up to date with all changes known to be in force on or before 23 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*

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- (a) any health board constituted under section 2 of the <sup>M1</sup>National Health Service (Scotland) Act 1978;
  - (b) any national health service trust established under section 12A of that Act;
  - [<sup>F1</sup>(c) any person providing—
    - (i) an independent hospital;
    - (ii) a private psychiatric hospital;
    - (iii) an independent clinic; or
    - (iv) an independent medical agency,
 within the meaning given to those expressions by section 10F(2) of the National Health Service (Scotland) Act 1978 (c.29); and]
  - (d) any person providing a care home service (as defined by [<sup>F2</sup>paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010] (asp 8)).
- (4) For the purposes of subsection (1) above, a child has parental contact only when in the presence of a person having parental responsibilities in relation to him.
- (5) A person duly authorised by a local authority may in the area of that authority, at all reasonable times, enter for the purposes of subsection (2) above or of determining whether there has been compliance with subsection (1) above any such place as is mentioned in sub-paragraph (i) or (ii) of subsection (3)(c) above and may for those purposes inspect any records or registers relating to that place; and subsections (2A) to (2D) and (4) of section 6 of the <sup>M2</sup>Social Work (Scotland) Act 1968 (exercise of powers of entry and inspection) [<sup>F3</sup>(as in force immediately prior to their repeal by section 8 of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006)] shall apply in respect of a person so authorised as they [<sup>F4</sup>applied] in respect of a person duly authorised under subsection (1) of that section.

#### Textual Amendments

- F1** S. 36(3)(c) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 2 para. 4**
- F2** Words in s. 36(3)(d) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 1 para. 6(a)**
- F3** Words in s. 36(5) inserted (23.2.2006) by [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#), **ss. 8(1)(a)**, 10(2)
- F4** Words in s. 36(5) substituted (23.2.2006) by [Joint Inspection of Children's Services and Inspection of Social Work Services \(Scotland\) Act 2006 \(asp 3\)](#), **ss. 8(1)(b)**, 10(2)

#### Marginal Citations

- M1** 1978 c.29.
- M2** 1968 c.49.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to [legislation.gov.uk](#). These Regulations never came into effect, having been revoked before coming into force by [S.I. 2010/1906, reg. 2](#))

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- [s. 3\(3A\)\(ba\)](#) inserted by [2009 c. 24 Sch. 6 para. 25](#)
- [s. 4B](#) inserted by [2020 asp 16 s. 28\(2\)](#)
- [s. 6\(1A\)-\(1D\)](#) inserted by [2020 asp 16 s. 1\(2\)\(b\)](#)
- [s. 10\(1A\)](#) inserted by [2024 asp 2 Sch. 1 para. 18\(b\)](#)
- [s. 11\(14\)](#) inserted by [2020 asp 16 s. 10\(2\)\(b\)](#)
- [s. 11B11C](#) inserted by [2020 asp 16 s. 8\(2\)](#)
- [s. 11B\(2\)](#) power to amend conferred by [2020 asp 16 s. 32](#)
- [s. 11D](#) inserted by [2020 asp 16 s. 17\(2\)](#)
- [s. 11D\(3\)](#) power to amend conferred by [2020 asp 16 s. 32](#)
- [s. 11E](#) inserted by [2020 asp 16 s. 18\(2\)](#)
- [s. 11F](#) inserted by [2020 asp 16 s. 20\(2\)](#)
- [s. 11G](#) inserted by [2020 asp 16 s. 22\(2\)](#)
- [s. 11ZA11ZB](#) inserted by [2020 asp 16 s. 1\(4\)](#)
- [s. 11ZA\(2A\)](#) inserted by [2020 asp 16 s. 30\(2\)](#)
- [s. 11ZA\(3\)\(f\)](#) inserted by [2020 asp 16 s. 16\(2\)](#)
- [s. 16\(1A\)](#) inserted by [2020 asp 16 s. 30\(3\)](#)
- [s. 16\(2\)-\(2B\)](#) substituted for [s. 16\(2\)](#) by [2020 asp 16 s. 1\(6\)](#)
- [s. 100A](#) inserted by [2020 asp 16 s. 21\(2\)](#)
- [s. 101D](#) inserted by [2020 asp 16 s. 11\(2\)](#)
- [s. 101E](#) inserted by [2020 asp 16 s. 12\(2\)](#)