

Changes to legislation: Human Fertilisation and Embryology Act 2008, Cross Heading: Children (Scotland) Act 1995 (c. 36) 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

SCHEDULES

SCHEDULE 6

AMENDMENTS RELATING TO PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

PART 2

ENACTMENTS RELATING ONLY TO SCOTLAND

Children (Scotland) Act 1995 (c. 36)

- 48 In section 1(1) of the Children (Scotland) Act 1995 (parental responsibilities), after “3(1)(b)” insert “, and (d)”.

Commencement Information

- II** Sch. 6 para. 48 wholly in force at 1.9.2009; Sch. 6 para. 48 not in force at Royal Assent see s. 68; Sch. 6 para. 48 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 49 In section 2(1) of the Children (Scotland) Act 1995 (parental rights), after “3(1)(b)” insert “, and (d)”.

Commencement Information

- 12** Sch. 6 para. 49 wholly in force at 1.9.2009; Sch. 6 para. 49 not in force at Royal Assent see s. 68; Sch. 6 para. 49 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 50 (1) Section 3 of the Children (Scotland) Act 1995 (provisions relating both to parental responsibilities and parental rights) is amended as follows.

- (2) After subsection (1)(b), insert—

- “(c) without prejudice to any arrangements which may be made under subsection (5) below, where a child has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008, that parent has parental responsibilities and parental rights in relation to the child;
- (d) without prejudice to any arrangements which may be made under subsection (5) below and subject to any agreement which may be made under section 4A(1) of this Act, where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, that parent has parental responsibilities and parental rights in relation to the child if she is registered as a parent of the child under any of the enactments mentioned in subsection (3A).”

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(3) After subsection (3), insert—

“(3A) Those enactments are—

- (a) paragraphs (a), (b) and (d) of section 18B(1) and section 18B(3)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965;
- (b) paragraphs (a), (b) and (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953;
- (c) sub-paragraphs (a), (b) and (c) of Article 14ZA(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.”

(4) In subsection (5), for “section 4(1)” substitute “ sections 4(1) and 4A(1) ”.

Commencement Information

I3 Sch. 6 para. 50 wholly in force at 1.9.2009; Sch. 6 para. 50 not in force at Royal Assent see s. 68; Sch. 6 para. 50 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

51 After section 4 of the Children (Scotland) Act 1995 insert—

“4A Acquisition of parental responsibilities and parental rights by second female parent by agreement with mother

(1) Where—

- (a) a child's mother has not been deprived of some or all of the parental responsibilities and parental rights in relation to the child; and
- (b) the child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and that parent is not registered as such under any of the enactments mentioned in section 3(3A),

the mother and the other parent may by agreement provide that, as from the appropriate date, the other parent shall have the parental responsibilities and rights (in the absence of any order under section 11 of this Act affecting responsibilities and rights) as if the other parent were treated as a parent by virtue of section 42 of that Act of 2008.

(2) Section 4(2), (3) and (4) applies in relation to an agreement under subsection (1) of this section as it applies in relation to an agreement under subsection (1) of section 4.”

Commencement Information

I4 Sch. 6 para. 51 wholly in force at 1.9.2009; Sch. 6 para. 51 not in force at Royal Assent see s. 68; Sch. 6 para. 51 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

52 (1) Section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities) is amended as follows.

(2) In subsection (4)(c)—

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- (a) for “subsection (9) of section 30 of the Human Fertilisation and Embryology Act 1990 (provision for enactments about adoption to have effect with modifications)” substitute “ section 55(1) of the Human Fertilisation and Embryology Act 2008 (parental orders: supplementary provision) ”, and
- (b) for “subsection (1) of that section” substitute “ section 54 of that Act ”.

(3) In subsection (11), after “4(2)” insert “ or 4A(2) ”.

Commencement Information

I5 Sch. 6 para. 52 wholly in force at 6.4.2010; Sch. 6 para. 52 not in force at Royal Assent see s. 68; Sch. 6 para. 52 in force for certain purposes at 6.4.2009 and Sch. 6 para. 52(1)(3) in force at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3); Sch. 6 para. 52 otherwise in force 6.4.2010 by S.I. 2010/987, art. 2(g)

- 53 In section 12(4)(b) of the Children (Scotland) Act 1995 (meaning of “child of the family” in civil partnership cases)—
- (a) the words from “who” to the end become sub-paragraph (i), and
 - (b) after that sub-paragraph insert “; or
 - (ii) whose parents are the partners (being parents by virtue of sections 33 and 42 of the Human Fertilisation and Embryology Act 2008).”

Commencement Information

I6 Sch. 6 para. 53 wholly in force at 1.9.2009; Sch. 6 para. 53 not in force at Royal Assent see s. 68; Sch. 6 para. 53 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 54 In section 15(1) of the Children (Scotland) Act 1995 (interpretation of Part 1), in the definition of “parent”—
- (a) after “1990” insert “ and Part 2 of the Human Fertilisation and Embryology Act 2008 ”, and
 - (b) for “subsection (9) of the said section 30” substitute “ section 55(1) of that Act of 2008 ”.

Commencement Information

I7 Sch. 6 para. 54 wholly in force at 6.4.2010; Sch. 6 para. 54 not in force at Royal Assent see s. 68; Sch. 6 para. 54 in force for certain purposes at 6.4.2009 and Sch. 6 para. 54(a) in force at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3); Sch. 6 para. 54 otherwise in force 6.4.2010 by S.I. 2010/987, art. 2(g)

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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. 55(3)(e) and word inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 75\(b\)](#)