



# Children (Scotland) Act 2020

## 2020 asp 16

### *Miscellaneous provisions*

#### **28 Conferral of parental responsibilities and parental rights: births registered outwith UK**

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 4A insert—

#### **“4B Conferral of parental responsibilities and parental rights where birth is registered outwith the United Kingdom**

- (1) The Scottish Ministers may by regulations make provision for the conferral of parental responsibilities and parental rights on the following persons—
  - (a) a father who has not acquired those responsibilities and rights under section 3(1)(b), 4 or 11, or
  - (b) a second female parent who has not acquired those responsibilities and rights under section 3(1)(c) or (d), 4A or 11.
- (2) Regulations under subsection (1) may only make provision for the conferral of parental responsibilities and parental rights on a person in a case where—
  - (a) the child’s birth is registered outwith the United Kingdom,
  - (b) the person acquired parental duties, rights or responsibilities in relation to the child through a process specified in the regulations, and
  - (c) the mother of the child has consented to that person acquiring those duties, rights or responsibilities.
- (3) Regulations under subsection (1) are subject to the negative procedure.”

#### **29 Extension to sheriff of enforcement powers under Family Law Act 1986**

- (1) The Family Law Act 1986 is modified by subsections (2) and (3).
- (2) After section 29 insert—

**“29A Enforcement: special Scottish rule**

- (1) For the purposes of its enforcement, a Part 1 order that is registered in the Court of Session under section 27 is to be regarded as also registered under that section in every sheriff court.
- (2) A sheriff may entertain an application for the enforcement of a Part 1 order if the sheriff would have jurisdiction under Chapter 3 of this Part to make a Part 1 order in respect of the child concerned.
- (3) In reading Chapter 3 of this Part for the purposes of subsection (2)—
  - (a) sections 11 and 13 are to be ignored, and
  - (b) any reference to the date of the application is to be read as a reference to the date of the application for the enforcement of the Part 1 order.”.
- (3) In section 31(2) (dismissal of enforcement proceedings), after “Court of Session” insert “or sheriff court”,
- (4) The Courts Reform (Scotland) Act 2014 is modified by subsection (5).
- (5) In section 43(3)(c) (jurisdiction over persons etc.), after “Part 1” insert “and section 29A”.

**30 Delay in proceedings likely to prejudice child’s welfare**

- (1) The Children (Scotland) Act 1995 is modified by subsections (2) and (3).
- (2) In section 11ZA (paramourty of child’s welfare, and the non-intervention presumption) (which is inserted by section 1(4) of this Act), after subsection (2) insert—
 

“(2A) When considering the child’s welfare, the court is to have regard to any risk of prejudice to the child’s welfare that delay in proceedings would pose.”.
- (3) In section 16 (welfare of child and consideration of his views), after subsection (1) insert—
 

“(1A) When considering the child’s welfare, the court is to have regard to any risk of prejudice to the child’s welfare that delay in proceedings would pose.”.
- (4) The Adoption and Children (Scotland) Act 2007 is modified by subsection (5).
- (5) In section 14 (considerations applying to the exercise of powers), after subsection (3) insert—
 

“(3A) When considering the child’s welfare, the court is to have regard to any risk of prejudice to the child’s welfare that delay in proceedings would pose.”.
- (6) The Children’s Hearings (Scotland) Act 2011 is modified by subsection (7).
- (7) In section 25 (welfare of the child), after subsection (2) insert—
 

“(3) The children’s hearing, pre-hearing panel or court is to have regard to any risk of prejudice to the child’s welfare that delay in proceedings would pose.”.