

# **CHILDREN (SCOTLAND) ACT 2020**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Detailed provisions*

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

102. Under the law as it stands, the mother of a child has parental responsibilities and rights (PRRs) automatically. The father of the child has PRRs if married to the mother or the parents jointly register the birth of the child in a specified register in any part of the UK, or if the father completes and registers with the mother a Parental Responsibilities and Rights Agreement Form.<sup>1</sup> PRRs may also be conferred by court order. Second female parents receive PRRs in broadly similar circumstances.
103. Section 28(2) inserts section 4B into the 1995 Act which provides that the Scottish Ministers may by regulations (subject to the negative procedure) make provision conferring PRRs on a father or second female parent who has not acquired those responsibilities and rights through one of the methods available under the 1995 Act. The power only allows PRRs to be conferred where the child's birth is registered outwith the United Kingdom, where the person has acquired parental duties, rights or responsibilities in relation to the child through a process specified in the regulations, and where the mother of the child has consented to the person acquiring those duties, rights or responsibilities.
104. A father who married outwith Scotland would already have PRRs in Scotland so long as the marriage is recognised in Scotland as section 3(1) of the 1995 Act refers to being married to the mother: there is no requirement for the marriage to have taken place in Scotland.

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<sup>1</sup> <https://www2.gov.scot/Publications/2008/06/16155526/0>