



Registration of Births, Deaths and Marriages (Scotland) Act 1965

1965 CHAPTER 49

PART II

REGISTRATION OF BIRTHS

[^{F1}18 Births of children born out of wedlock.

- (1) [^{F2}Subject to section 18ZA of this Act] no person who is not married to [^{F3}or in a civil partnership with] the mother of a child and has not been married to [^{F3}or in a civil partnership with] her since the child's conception shall be required, as father of the child, to give information concerning the birth of the child and, save as provided in section 20 of this Act, the [^{F4}district registrar for the registration district] shall not enter in the [^{F5}birth registration form concerning the birth] the name and surname of any such person as father of the child except—
- (a) at the joint request of the mother and the person acknowledging himself to be the father of the child (in which case [^{F6}the birth registration form is to be attested by, or on behalf of, both that person and] the mother); or
 - (b) at the request of the mother—
 - (i) on the production of—
 - (aa) a declaration in the prescribed form made by the mother stating that that person is the father of the child; and
 - (bb) a statutory declaration made by that person acknowledging himself to be the father of the child; or
 - (ii) on production of a decree by a competent court finding or declaring that person to be the father of the child; or
 - (c) at the request of that person on production of—
 - (i) a declaration in the prescribed form by that person acknowledging himself to be the father of the child; and
 - (ii) a statutory declaration made by the mother stating that that person is the father of the child.

Changes to legislation: There are currently no known outstanding effects for the Registration of Births, Deaths and Marriages (Scotland) Act 1965, Section 18. (See end of Document for details)

- (1A) Where a person acknowledging himself to be the father of a child makes a request to the [^{F7}district registrar for the registration district] in accordance with paragraph (c) of subsection (1) of this section, he shall be treated as a qualified informant concerning the birth of the child for the purposes of this Act; and the giving of information concerning the birth of the child by that person and the [^{F8}attesting of the birth registration form concerning the birth][^{F9}by, or on behalf of, that person] shall act as a discharge of any duty of any other qualified informant under section 14 of this Act.]
- (2) In any case where the name and surname of the father of [^{F10}a] child has not been entered in the [^{F11}birth registration form concerning the birth], the Registrar General may record that name and surname by causing an appropriate entry to be made in the Register of Corrections Etc.—
- (a) if a decree of paternity has been granted by a competent court; or
 - (b) if there is produced to him [^{F12}a declaration and a statutory declaration such as are mentioned in paragraph (b) or (c) of subsection (1) of this section]; or
 - (c) if, where the mother is [^{F13}dead or cannot be found or is incapable of making a request under subsection (1)(b) of this section, or a declaration under subsection (1)(b)(i)(aa) of this section, or a statutory declaration under subsection (1)(c)(ii) of this section], he is ordered so to do by the sheriff upon application made to the sheriff . . . ^{F14} by the person acknowledging himself to be the father of the child.

Where a decree of paternity has been granted by any court the clerk of court shall, where no appeal has been made against such decree, on the expiration of the time within which such an appeal may be made, or where an appeal has been made against such a decree, on the conclusion of any appellate proceedings, notify the import of such decree in the prescribed form to the Registrar General.

- [^{F15}(3) A person under the age of sixteen years has legal capacity—
- (a) to make a request, declaration or statutory declaration under subsection (1) or (2)(b) above if, in the opinion of the registrar; or
 - (b) to make an application under subsection (2)(c) above if, in the opinion of the sheriff,
- that person understands the nature of the request or, as the case may be, of the declaration, statutory declaration or application; and without prejudice to the generality of this subsection a person twelve years of age or more shall be presumed to be of sufficient age and maturity to have such understanding.]

- [^{F16}(4) References in this section to a birth registration form being attested—
- (a) by a person are to the person attesting the form—
 - (i) in the prescribed manner in the presence of the district registrar, or
 - (ii) in a manner approved by the Registrar General,
 - (b) on behalf of a person are to the form being attested by the district registrar in a manner approved by the Registrar General (once the person has provided the registrar with any information the registrar requests).
- (5) Where—
- (a) a person is required by this section to attest a birth registration form, and
 - (b) there is a way for the person to do so that does not entail attesting it in the presence of a district registrar,
- it is for the person to choose whether to attest the form that way.]

Changes to legislation: There are currently no known outstanding effects for the Registration of Births, Deaths and Marriages (Scotland) Act 1965, Section 18. (See end of Document for details)

Textual Amendments

- F1** S. 18(1)(1A) substituted for s. 18(1) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(1), **Sch. 1 para. 8(2)**
- F2** Words in s. 18(1) inserted (1.12.2003) by Human Fertilisation and Embryology (Deceased Fathers) Act 2003 (c. 24), s. 4(2), **Sch. para. 6**; S.I. 2003/3095, art. 2
- F3** Words in s. 18(1) inserted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 1(3)**; S.S.I. 2021/23, reg. 2, sch. (with reg. 3)
- F4** Words in s. 18(1) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), **ss. 39(8)(a)(i)**, 63(2); S.S.I. 2006/469, arts. 2, 3, Schs. 1, 2 (with art. 4)
- F5** Words in s. 18(1) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), **ss. 39(8)(a)(ii)**, 63(2); S.S.I. 2006/469, arts. 2, 3, Schs. 1, 2 (with art. 4)
- F6** Words in s. 18(1)(a) substituted (1.9.2022 for specified purposes, 24.9.2022 in so far as not already in force) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 25(6)(a)**, 59(2)(a)(i)(ii)
- F7** Words in s. 18(1A) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), **ss. 39(8)(b)(i)**, 63(2); S.S.I. 2006/469, arts. 2, 3, Schs. 1, 2 (with art. 4)
- F8** Words in s. 18(1A) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), **ss. 39(8)(b)(ii)**, 63(2); S.S.I. 2006/469, arts. 2, 3, Schs. 1, 2 (with art. 4)
- F9** Words in s. 18(1A) substituted (1.9.2022 for specified purposes, 24.9.2022 in so far as not already in force) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 25(6)(b)**, 59(2)(a)(i)(ii)
- F10** Words substituted by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(1), **Sch. 1 para. 8(3)(a)**
- F11** Words in s. 18(2) substituted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), **ss. 39(8)(c)**, 63(2); S.S.I. 2006/469, arts. 2, 3, Schs. 1, 2 (with art. 4)
- F12** Words substituted by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(1), **Sch. 1 para. 8(3)(b)**
- F13** Words substituted by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(1), **Sch. 1 para. 8(3)(c)**
- F14** Words repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), s. 10(1)(2), **Sch. 1 para. 8(3)(c)**, Sch. 2
- F15** S. 18(3) added (1.11.1995) by 1995 c. 36, s. 99(3); S.I. 1995/2787, art. 3, **Sch.**
- F16** S. 18(4)(5) inserted (1.9.2022 for specified purposes, 24.9.2022 in so far as not already in force) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 25(6)(c)**, 59(2)(a)(i)(ii)

Modifications etc. (not altering text)

- C1** S. 18(1)(2) modified (1.11.1995) by 1995 c. 36, s. 99(4); S.I. 1995/2787, art. 3, **Sch.**

Changes to legislation:

There are currently no known outstanding effects for the Registration of Births, Deaths and Marriages (Scotland) Act 1965, Section 18.