



# Children Act 1975

## 1975 CHAPTER 72

### PART II

#### CUSTODY

##### *Custody in Scotland*

**F1**47 .....

**Textual Amendments**

**F1** S. 47 repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(2), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

**F2**48 .....

**Textual Amendments**

**F2** S. 48 repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(2), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

**F3**49 .....

**Textual Amendments**

**F3** S. 49 repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(2), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

*Status: Point in time view as at 01/11/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Children Act 1975, Cross Heading: Custody in Scotland. (See end of Document for details)*

## 50 Payments towards maintenance of children.

Without prejudice to any existing powers and duties to make payments in respect of the maintenance of children, where [<sup>F4</sup>a child under the age of sixteen is residing with and being cared for (other than as a foster child) by a person other than a parent of the child, a council constituted under section 2 of the <sup>M1</sup>Local Government (Scotland) Act 1994] may make to that person payments for or towards the maintenance of the child.

### Textual Amendments

**F4** Words in s. 50 substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 26(3)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

### Marginal Citations

**M1** 1994 c. 39.

## 51 Restriction on removal of child where applicant has provided home for three years.

- (1) Where a person has applied for [<sup>F5</sup>a residence order in relation to] a child, it shall be an offence, except with the authority of a court or under authority conferred by any enactment or on the arrest of the child, to remove the child from the [<sup>F6</sup>care and possession] of the applicant against the will of the applicant if—
- (a) the child has been in the care and possession of that person for a period or periods before the making of the application which amount to at least three years; and
  - (b) the application is pending in any court.
- (2) In any case where subsection (1) applies, and
- (a) the child was in the care of a local authority before he began to have his home with the applicant, and
  - (b) the child remains in the care of a local authority,
- the authority in whose care the child is shall not remove the child from the applicant's [<sup>F6</sup>care and possession] except—
- (i) with the applicant's consent;
  - (ii) with the leave of a court; or
  - (iii) with the authority, in terms of Part III of the <sup>M2</sup>Social Work (Scotland) Act 1968, of a justice of the peace or a children's hearing.
- (3) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding [<sup>F7</sup>level 5 on the standard scale] or both.
- (4) The Secretary of State may by order, a draft of which has been approved by each House of Parliament, amend subsection (1) to substitute a different period for the period mentioned in that subsection (or for the period which, by a previous order under this subsection, was substituted for that period).
- [<sup>F8</sup>(5) In this section “looked after” and “residence order” have the meanings given respectively by section 17(6) and section 11(2)(c) of the Children (Scotland) Act 1995; and “residence order” shall have the same meaning in sections 52 and 53 of this Act.]

*Status: Point in time view as at 01/11/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Children Act 1975, Cross Heading: Custody in Scotland. (See end of Document for details)*

**Textual Amendments**

- F5** Words in s. 51(1) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 26(4)(a)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F6** Words substituted by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, Sch. 2 para. 25**
- F7** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G**
- F8** S. 51(5) added (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 26(4)(c)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

**Marginal Citations**

- M2** 1968 c. 49(81:3).

**52 Return of child taken away in breach of section 51.**

A court in which an application for [<sup>F9</sup>a residence order in relation to] a child is pending may—

- (a) on the application of a person from whose [<sup>F10</sup>care and possession] the child has been removed in breach of section 51, order the person who has so removed the child to return the child to the applicant;
- (b) on the application of a person who has reasonable grounds for believing that another person is intending to remove the child from the applicant's [<sup>F10</sup>care and possession] in breach of section 51, by order direct that other person not to remove the child from the applicant's [<sup>F10</sup>care and possession] in breach of that section.

**Textual Amendments**

- F9** Words in s. 52 substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 26(5)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F10** Words substituted by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 9, Sch. 2 para. 26**

<sup>F11</sup>**53** .....

**Textual Amendments**

- F11** S. 53 repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 26(6), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

**54** ..... <sup>F12</sup>

**Textual Amendments**

- F12** S. 54 repealed by **Family Law Act 1986 (c. 55, SIF 49:3), s. 68(2), Sch. 2**

*Status: Point in time view as at 01/11/1996.*

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## 55 Interpretation and extent of <sup>F13</sup>sections 50 to 53].

- (1) In <sup>F13</sup>sections 50 to 53]“child” means a person under the age of sixteen <sup>F14</sup>and “relative” means a grand-parent, brother, sister, uncle or aunt, whether of the full blood or half blood or by affinity].
- (2) <sup>F13</sup>Sections 50 to 53] and this section apply to Scotland only <sup>F15</sup>and shall be construed in accordance with section 1(1) of the <sup>M3</sup>Law Reform (Parent and Child) (Scotland) Act 1986].

### Textual Amendments

- F13** Words in s. 55 substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 26(7)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- F14** Words added by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(1), **Sch. 1 para. 14(3)**
- F15** Words added by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(1), **Sch. 1 para. 14(4)**

### Marginal Citations

- M3** 1986 c. 9(49:8).

**Status:**

Point in time view as at 01/11/1996.

**Changes to legislation:**

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Custody in Scotland.