



# Law Reform (Parent and Child) (Scotland) Act 1986

## 1986 CHAPTER 9

An Act to make fresh provision in the law of Scotland with respect to the consequences of birth out of wedlock, the rights and duties of parents, the determination of parentage and the taking of blood samples in relation to the determination of parentage; to amend the law as to guardianship; and for connected purposes. [26th March 1986]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act: definition of "parental rights" applied (17.6.1992) by [Child Support Act 1991 \(c. 48, SIF 20\)](#), [s.54](#), (with s. 9(2)); [S.I. 1992/1431](#), [art. 2](#), Sch.

## 1 Legal equality of children.

- (1) The fact that a person's parents are not or have not been married to one another shall be left out of account in establishing the legal relationship between the person and any other person; and accordingly any such relationship shall have effect as if the parents were or had been married to one another.
- (2) Subject to subsection (4) below, any reference (however expressed) in any enactment or deed to any relative shall, unless the contrary intention appears in the enactment or deed, be construed in accordance with subsection (1) above.
- [<sup>F1</sup>(3) Subsection (1) above is subject to subsection (4) below, to section 9(1) of this Act and to section 3(1)(b) of the Children (Scotland) Act 1995 (parental responsibilities and parental rights of natural father).]
- (4) Nothing in this section shall apply to the construction or effect of—

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- (a) any enactment passed or made before the commencement of this Act unless the enactment is amended by Schedule 1 to this Act and, as so amended, otherwise provides;
- (b) any deed executed before such commencement;
- (c) any reference (however expressed) in any deed executed after such commencement to a legitimate or illegitimate person or relationship.

**Textual Amendments**

**F1** S. 1(3) substituted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 38(2)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

**Modifications etc. (not altering text)**

- C2** S. 1(1) excluded (1.11.1996) by 1995 c. 36, s. **3(1)** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**
- C3** S. 1(1) applied (5.12.2005) by Civil Partnership Act 2004 (c. 33), **ss. 86(8)**, 263(3); S.S.I. 2005/604, art. 2(b)
- C4** S. 1(2) excluded (6.4.2003 with effect in accordance with s. 723(1)(a)(b)) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **ss. 721(6)(c)**, 723 (with Sch. 7)

**F2** .....

**Textual Amendments**

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

**F3** .....

**Textual Amendments**

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

**F4** .....

**Textual Amendments**

**F4** S. 4 repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.** Table

**5 Presumptions.**

- (1) A man shall be presumed to be the father of a child—
  - (a) if he was married to the mother of the child at any time in the period beginning with the conception and ending with the birth of the child;

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- (b) where paragraph (a) above does not apply, if both he and the mother of the child have acknowledged that he is the father and he has been registered as such in any register kept under section 13 (register of births and still-births) or section 44 (register of corrections, etc.) of the <sup>M1</sup>Registration of Births, Deaths and Marriages (Scotland) Act 1965 or in any corresponding register kept under statutory authority in any part of the United Kingdom other than Scotland.
- (2) Subsection (1)(a) above shall apply in the case of a void, voidable or irregular marriage as it applies in the case of a valid and regular marriage.
- (3) Without prejudice to the effect under any rule of law which a decree of declarator in an action to which section 7 of this Act applies may have in relation to the parties, a decree of declarator in such an action shall give rise to a presumption to the same effect as the decree; and any such presumption shall displace any contrary presumption howsoever arising.
- (4) Any presumption under this section may be rebutted by proof on a balance of probabilities.

#### Marginal Citations

M1 1965 c. 49.

## 6 Determination of parentage by blood sample.

- (1) This section applies where, for the purpose of obtaining evidence relating to the determination of parentage in civil proceedings, a [<sup>F5</sup>sample of blood or other body fluid or of body tissue] is sought by a party to the proceedings or by a curator ad litem.
- (2) Where [<sup>F6</sup>such a] sample is sought from a [<sup>F7</sup>child under the age of 16 years], consent to the taking of the sample may be given by his [<sup>F8</sup>any person having parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him or having]care and control of him.
- (3) Where [<sup>F6</sup>such a] sample is sought from any person who is incapable of giving consent, the court may consent to the taking of the sample where—
- there is no person who is entitled to give such consent, or
  - there is such a person, but it is not reasonably practicable to obtain his consent in the circumstances, or he is unwilling to accept the responsibility of giving or withholding consent.
- (4) The court shall not consent under subsection (3) above to the taking of [<sup>F6</sup>such a] sample from any person unless the court is satisfied that the taking of the sample would not be detrimental to the person's health.

#### Textual Amendments

F5 Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 47\)](#), s. 70(3)(a)(4)

F6 Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 47\)](#), s. 70(3)(b)(4)

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- F7** Words in s. 6(2) substituted by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), s. 10(1), **Sch. 1 para. 42** (with s. 1(3)).
- F8** Words in s. 6(2) substituted (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch.**

## 7 Actions for declarator.

- (1) An action for declarator of parentage, non-parentage, legitimacy, legitimation or illegitimacy may be brought in the Court of Session or the sheriff court.
- (2) Such an action may be brought in the Court of Session if and only if the child was born in Scotland or the alleged or presumed parent or the child—
- is domiciled in Scotland on the date when the action is brought;
  - was habitually resident in Scotland for not less than one year immediately preceding that date; or
  - died before that date and either—
    - was at the date of death domiciled in Scotland; or
    - had been habitually resident in Scotland for not less than one year immediately preceding the date of death.
- (3) Such an action may be brought in the sheriff court if and only if—
- the child was born in the sheriffdom, or
  - an action could have been brought in the Court of Session under subsection (2) above and the alleged or presumed parent or the child was habitually resident in the sheriffdom on the date when the action is brought or on the date of his death.
- (4) ..... <sup>F9</sup>
- (5) Nothing in any rule of law or enactment shall prevent the court making in any proceedings an incidental finding as to parentage, non-parentage, legitimacy, legitimation or illegitimacy for the purposes of those proceedings.
- (6) In this section “the alleged or presumed parent” includes a person who claims or is alleged to be or not to be the parent.

### Textual Amendments

- F9** S. 7(4) repealed Civil Evidence (Scotland) Act 1988 (c. 32, SIF 47), s. 10(1)(3), **Sch.**

### Modifications etc. (not altering text)

- C5** S. 7 extended (5. 4. 1993) by Child Support Act 1991 (c. 48, SIF 20), s. 28(1), (with s. 9(2)); S.I. 1992/2644, **art.2** (subject to transitional provisions as set out in art. 3, **Sch.**)

## 8 Interpretation.

In this Act, unless the context otherwise requires, the following expressions shall have the following meanings respectively assigned to them—

“action for declarator” includes an application for declarator contained in other proceedings [<sup>F10</sup>] but does not include an appeal under section 20 (Appeals) of the Child Support Act 1991 made to the court by virtue of an order

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made under section 45 (jurisdictions of courts in certain proceedings) of that Act]]<sup>F11</sup>but does not include an appeal under section 20(1)(a) or (b) (Appeals) of the Child Support Act 1991 made to the court by virtue of an order made under section 45 (jurisdiction of the courts in certain proceedings) of that Act.];

F12

“the court” means the Court of Session or the sheriff;

F13

“deed” means any disposition, contract, instrument or writing whether inter vivos or mortis causa;

“non-parentage” means that a person is not or was not the parent, or is not or was not the child, of another person;

“parent” includes natural parent;

“parentage” means that a person is or was the parent, or is or was the child, of another person;

F14

F15

#### Textual Amendments

- F10** Words in s. 8 definition of "action for declarator" inserted (5.4.1993) by S.I. 1993/961, **art. 8**.
- F11** Words in s. 8 inserted (18.2.2003 coming into force in accordance with art. 1(2)) by virtue of [Child Support Appeals \(Jurisdiction of Courts\) \(Scotland\) Order 2003 \(S.S.I. 2003/96\)](#), arts. 1(2), 7
- F12** Definition repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch. Table**
- F13** S. 8: definition of "curator" repealed by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), s. 10(2), **Sch. 2** (with s. 1(3)).
- F14** Definition repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5** (with s. 103(1)); S.I. 1996/2203, art. 3(3), **Sch. Table**
- F15** S. 8: definition of "tutor" repealed by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), s. 10(2), **Sch. 2** (with s. 1(3)).

#### Modifications etc. (not altering text)

- C6** S. 8: definition of "parental rights" applied by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), s. 9 (with s. 1(3)).

## 9 Savings and supplementary provisions.

- (1) Nothing in this Act shall—
- affect any rule of law whereby a child born out of wedlock takes the domicile of his mother as a domicile of origin or dependence;
  - except to the extent that Schedules 1 and 2 to this Act otherwise provide, affect the law relating to adoption of children;
  - apply to any title, coat of arms, honour or dignity transmissible on the death of the holder thereof or affect the succession thereto or the devolution thereof;
  - affect the right of legitim out of, or the right of succession to, the estate of any person who died before the commencement of this Act.
- (2) The court may at any time vary or recall any order made under section 3 of this Act or consent given by it under section 6 of this Act.

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## **10 Transitional provisions, amendments and repeals.**

- (1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out in that Schedule.
- (2) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent set out in the third column of that Schedule.

## **11 Citation, commencement and extent.**

- (1) This Act may be cited as the Law Reform (Parent and Child) (Scotland) Act 1986.
- (2) This Act shall come into operation on such day as the Secretary of State may appoint by order made by statutory instrument.
- (3) An order under subsection (2) above may contain such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with the coming into operation of this Act.
- (4) This Act shall extend to Scotland only.

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### **Modifications etc. (not altering text)**

- C7** Power of appointment conferred by s. 11(2) fully exercised: 8.12.1986 appointed by [S.I. 1986/1983](#), [art. 2.](#)

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## SCHEDULES

### SCHEDULE 1

Section 10(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Judicial Factors Act 1849 (c. 51)*

1 In section 25 (application to certain tutors and curators) at the end there shall be inserted the following new subsection—

“(2) Any person being an administrator-in-law, tutor-nominate, guardian appointed or acting under the Guardianship of Infants Acts 1886 and 1925 or tutor appointed under the Law Reform (Parent and Child) (Scotland) Act 1986 who shall, by virtue of his office, administer the estate of any pupil, shall be deemed to be a tutor within the meaning of this Act and shall be subject to the provisions thereof, but any such person shall not be bound to find caution in terms of sections 26 and 27 of this Act unless the court, on the application of any party having an interest, shall so direct.”

2 ..... F16

#### Textual Amendments

**F16** Sch. 1 para. 2 repealed by Court of Session Act 1988 (c. 36, SIF 36:1), s. 52(2), Sch. 2 Pt. I (and re-enacted as referred to in Sch. 2 Pt. II of that Act)

##### *The Sheriff Courts (Scotland) Act 1907 (c. 51)*

F173 .....

#### Textual Amendments

**F17** Sch. 1 para. 3 repealed (1.11.1996) by 1995 c. 36, s. 105(5), Sch. 5 (with s. 103(1)); S.I. 1995/2203, art. 3(3), Sch. Table

##### *The Trusts (Scotland) Act 1921 (c. 58)*

4 In section 2 (definitions), in the definition of “trustee”, after the word “tutor” there shall be inserted the words “ (including a father or mother acting as tutor of a pupil) ”.

##### *The National Assistance Act 1948 (c. 29)*

5 In section 42 (liability to maintain wife or husband and children), for subsection (3) there shall be substituted the following subsection—

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“(3) Subsection (2) of this section shall not apply to Scotland and, in the application thereto of subsection (1) of this section, any reference to ‘children’ includes a reference to children whether or not their parents have ever been married to one another.”.

*The Matrimonial Proceedings (Children) Act 1958 (c. 40)*

- 6 In section 9(1) (jurisdiction of court as respects children where action dismissed), for the words from “with respect” to “that child” there shall be substituted the words “relating to parental rights as could be made”.

*The Succession (Scotland) Act 1964 (c. 41)*

- 7 (1) In section 33(1) (construction of existing deeds), for the words “deed taking effect after the commencement of this Act”, where those words second occur, there shall be substituted the words “such deed”.
- (2) In section 36 (interpretation), at the end there shall be added the following subsection—
- “(5) Section 1(1) (legal equality of children) of the Law Reform (Parent and Child) (Scotland) Act 1986 shall apply to this Act ; and any reference (however expressed) in this Act to a relative shall be construed accordingly.”.

*The Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49)*

- 8 (1) In section 14 (duty to give information of particulars of birth), at the end there shall be added the following subsection—
- “(5) In this section, any reference to the father or parent of the child shall not include a reference to a father who is not married to the mother and has not been married to her since the child’s conception.”
- (2) In section 18 (births of illegitimate children), for subsection (1), there shall be substituted the following subsections—

**“18 Births of children born out of wedlock.**

- (1) No person who is not married to the mother of a child and has not been married to 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 registrar shall not enter in the register 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 that person shall sign the register together with 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



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- (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.
- (1A) Where a person acknowledging himself to be the father of a child makes a request to the registrar 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 signing of the register by him in the presence of the registrar shall act as a discharge of any duty of any other qualified informant under section 14 of this Act.”
- (3) In section 18, in subsection (2)—
  - (a) for the words “an illegitimate” there shall be substituted the word “ a ”,
  - (b) in paragraph (b) for heads (i) and (ii) there shall be substituted the words “ a declaration and a statutory declaration such as are mentioned in paragraph (b) or (c) of subsection (1) of this section ”, and
  - (c) in paragraph (c) for the word “dead” there shall be substituted the words “ 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 ”, and the words “within the like period” shall be omitted.
- (4) After section 18 there shall be inserted the following section—

**“18A Decrees of parentage and non-parentage.**

  - (1) Where a decree of parentage or non-parentage has been granted by any court the clerk of court shall—
    - (a) where no appeal has been made against such decree, on the expiration of the time within which such an appeal may be made, or
    - (b) 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.
  - (2) Where it appears to the Registrar General that the import of a decree notified to him under subsection (1) above does not correspond with the entry in the register of births in respect of any person to whom the decree relates he shall cause an appropriate entry to be made in the Register of Corrections Etc.”.
- (5) In section 20 (re-registration in certain cases)—
  - (a) in subsection (1)(a), for the words “or paternity” there shall be substituted the words “ , parentage or non-parentage ”; and

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- (b) in subsection (1)(c), for the words from “having been” to the end of paragraph (c) there shall be substituted the words “has been so made as to imply that his parents were not then married to one another and his parents have subsequently married one another”.
- (6) In section 20, at the end there shall be added the following subsection—
- “(3) Subject to the proviso in subsection (1) of this section, an application for re-registration of a person’s birth under this section may be made—
- (a) if the person is under 16 years of age—
    - (i) by the person’s mother, or
    - (ii) by the person’s father if he is the person’s guardian or is entitled to custody of the person or applies for such re-registration with the mother’s consent; or
  - (b) if the person is of or over 16 years of age but under 18 years of age, by the person himself with the consent of a parent or guardian; or
  - (c) if the person is of or over 18 years of age, by the person himself; or
  - (d) in any case, by any person who may be prescribed by regulations made under this Act.”
- (7) In section 43(3) (recording of baptismal name or change of name or surname), for the words from “in the case” to “the mother is” there shall be substituted the words “if both parents are”.
- (8) In section 43, at the end there shall be added the following subsection—
- “In this section, “father” and “parent”, in relation to a child, do not include a father who is not married to the mother and has not been married to her since the child’s conception and who is not the child’s tutor or curator and is not entitled to custody of the child.”
- (9) In section 56 (interpretation), in subsection (1), there shall be inserted (in their appropriate alphabetical place) the following definitions—
- ““guardian” includes tutor or curator;
- “parentage” has the meaning assigned to it in section 8 of the Law Reform (Parent and Child) (Scotland) Act 1986, and “non-parentage” shall be construed accordingly;
- “tutor or curator” does not include tutor ad litem, curator ad litem or curator bonis.”.
- (10) In section 56, at the end there shall be added the following subsection—
- “(3) Section 1(1) (legal equality of children) of the Law Reform (Parent and Child) (Scotland) Act 1986 shall apply to this Act; and any reference (however expressed) in this Act to a relative shall, unless the contrary intention appears, be construed accordingly.”

*The Social Work (Scotland) Act 1968 (c. 49)*

- 9 (1) In section 16(11) (assumption of parental rights by local authority), for paragraph (c) there shall be substituted—
- “(c) a tutor or curator to the child is appointed under the Law Reform (Parent and Child) (Scotland) Act 1986; or”.

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- (2) In section 18(4) (duration and rescission of resolutions under section 16), for the words from “section” to “1925” there shall be substituted the words “ the Law Reform (Parent and Child) (Scotland) Act 1986 ”<sup>F18</sup> . . .
- (3) In section 81(2) (decrees for aliment)—
  - (a) for the words from the beginning to “in force” there shall be substituted the words “ Where a decree for aliment of a maintainable child is in force ”,
  - (b) for the word “father” there shall be substituted the words “ person liable under the decree ”, and
  - (c) the words “for aliment” where those words second occur shall be omitted.
- (4) In section 81(4)(b), for the words “father of a child” there shall be substituted the words “ person liable to pay aliment for a child under a decree ”, and for the words “the father” where those words second occur there shall be substituted the words “ that person ”.
- (5) In section 88(3) (duty of parents to notify change of address), for the word “father” there shall be substituted the word “ person ”.
- (6) In section 94(1) (interpretation), in the definition of “guardian”,<sup>F18</sup> . . . for the word “charge” there shall be substituted the words “ custody or charge ”.

**Textual Amendments**

**F18** Words in Sch. 1 para. 9(2) and (6) repealed by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), s. 10(2), Sch.2 (with s. 1(3)).

*The Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70)*

10 In section 7 (protection of trustees and executors), at the end of paragraph (b) there shall be inserted the following paragraph—

“and

- (c) that no paternal relative of an illegitimate person exists who is or may be entitled to an interest in that property or payment.”

*The Sheriff Courts (Scotland) Act 1971 (c. 58)*

11 . . . . .<sup>F19</sup>

**Textual Amendments**

**F19** Sch. 1 para. 11 repealed by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), s. 10(2), Sch.2 (with s. 1(3)).

*The Guardianship Act 1973 (c. 29)*

12 . . . . .<sup>F20</sup>

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**Textual Amendments**

**F20** Sch. 1 para. 12 repealed by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), s. 10(2), Sch.2 (with s. 1(3)).

*The Domicile and Matrimonial Proceedings Act 1973 (c. 45)*

13 In Schedule 2 (ancillary and collateral orders (Scotland)), in paragraph 3 for the words from “or for” to the end there shall be substituted the words “ and paragraph (2C) of the said section 5.”

*The Children Act 1975 (c. 27)*

- 14 (1) In section 47(2) (granting of custody)—
- (a) for the words from the beginning to “1930” there shall be substituted the words “ Notwithstanding the generality of section 3(1) of the Law Reform (Parent and Child) (Scotland) Act 1986 ”; and
  - (b) ..... <sup>F21</sup>
- (2) In section 49(1) (notice to local authority of certain custody applications), for the words “a relative, step-parent or foster parent” there shall be substituted the words “ not a parent ”.
- (3) In section 55(1) (interpretation and extent of sections 47 to 55), at the end there shall be added the words “ and ”relative’ means a grand-parent, brother, sister, uncle or aunt, whether of the full blood or half blood or by affinity ”.
- (4) In section 55(2), at the end there shall be added the words “ and shall be construed in accordance with section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986 ”.

**Textual Amendments**

**F21** Sch. 1 para. 14(1)(b) repealed by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), s. 10(2), Sch.2 (with s. 1(3)).

*The Damages (Scotland) Act 1976 (c. 13)*

15 In Schedule 1 (definition of relative), in paragraph 2, for sub-paragraph (b) there shall be substituted—

“(b) section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986 shall apply; and any reference (however expressed) in this Act to a relative shall be construed accordingly.”

16 ..... <sup>F22</sup>

**Textual Amendments**

**F22** Sch. 1 para. 16 repealed by Social Security Act 1986 (c. 50, SIF 113:1), ss. 86, 87(4)(5), Sch. 11

*Status: Point in time view as at 05/12/2005.*

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*The Marriage (Scotland) Act 1977 (c. 15)*

17 At the end of section 2 (marriage of related persons) there shall be inserted the following subsection—

“(4) References in this section and in Schedule 1 to this Act to relationships and degrees of relationship shall be construed in accordance with section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986.”

*The Adoption (Scotland) Act 1978 (c. 28)*

18 (1) In section 18(7) (freeing child for adoption) for the words “an illegitimate child whose father is not its guardian” there shall be substituted “ a child whose father is not married to the mother and who does not have any parental right in relation to the child ” and for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) he has no intention of applying for any parental right under section 3 of the Law Reform (Parent and Child) (Scotland) Act 1986, or
- (b) if he did apply for any parental right under that section the application would be likely to be refused.”

(2) In section 39(2) (status conferred by adoption), for the words “an illegitimate” there shall be substituted “ a ”.

(3) In section 46(1) (revocation of adoptions on legitimation), for the words “an illegitimate” there shall be substituted “ a ”.

(4) In section 65(1) (interpretation), in the definition of “guardian”, in paragraph (b), for the words from “an illegitimate” to the end there shall be substituted the words “ a child whose father is not married to the mother, includes the father where he has, in relation to the child, tutory, curatory, custody, access or any other parental right by virtue of an order by a court of competent jurisdiction. ”

*The Administration of Justice Act 1982 (c. 53)*

19 In section 13(1) (interpretation of Part III), for the words from “an illegitimate” to the end there shall be substituted the words “ section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986 shall apply; and any reference (however expressed) in this Part of this Act to a relative shall be construed accordingly ”.

*The Child Abduction Act 1984 (c. 37)*

20 In section 6 (offence in Scotland of parent, etc. taking or sending child out of United Kingdom)—

(a) in subsection (2)(c), for the words “an illegitimate child” there shall be substituted the words “ a child whose parents are not and have never been married to one another ”; and

(b) .....

**Textual Amendments**

**F23** Sch. 1 para. 20(b) repealed by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), s. 10(2), [Sch.2](#) (with s. 1(3)).

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*The Family Law (Scotland) Act 1985 (c. 37)*

- 21 In section 27(1) (interpretation), in the definition of “child” for the words “an illegitimate child” there shall be substituted the words “a child whether or not his parents have ever been married to one another “.

SCHEDULE 2

Section 10(2).

REPEALS

Chapter	Short title	Extent of repeal
1830 c. 69.	The Court of Session Act 1830.	In section 33, the words “and all actions of declarator of legitimacy and of bastardy”.
1836 c. 22.	The Bastards (Scotland) Act 1836.	The whole Act.
1886 c. 27.	The Guardianship of Infants Act 1886.	The whole Act.
1907 c. 51.	The Sheriff Courts (Scotland) Act 1907.	In section 5, in paragraph (1), the words from “and” to “individuals”, paragraph (1A) and, in paragraph (2), the words from “and actions” to the end.
1925 c. 45.	The Guardianship of Infants Act 1925.	The whole Act.
1928 c. 26.	The Administration of Justice Act 1928.	Section 16.
1930 c. 33.	The Illegitimate Children (Scotland) Act 1930.	The whole Act.
1932 c. 47.	The Children and Young Persons (Scotland) Act 1932.	The whole Act.
1939 c. 4.	The Custody of Children (Scotland) Act 1939.	The whole Act.
1948 c. 29.	The National Assistance Act 1948.	Section 44.
1958 c. 40.	The Matrimonial Proceedings (Children) Act 1958.	Section 7.  In section 8(1), the words “maintenance and education”.  In section 10(1), the words “maintenance and education”.  In section 11(1), the words “maintenance and education”.

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1964 c. 41.	The Succession (Scotland) Act 1964.	In section 13(1) and (1A), the words “maintenance and education.” Section 14. Section 4. In section 6, the words from “For the purposes” to the end. In section 9(1)(a) and (b), the words from “or by any” to “intestate”. Section 10A. In section 11, in subsection (1), the words from “by virtue” to “rule of law” and the words from “In this” to the
Chapter 1964 c. 41 <i>cont.</i>	Short title The Succession (Scotland) Act 1964— <i>cont.</i>	Extent of repeal end, in subsection (2), the words from “For the purposes” to the end and, in subsection (4), the words “section 10A of this Act or of”. In section 13, the words from “In this section” to the end. In section 33(1), the words from “(other than” to “said section 10A”. In section 36(1), in the definition of “issue”, the word “lawful”.
1965 c. 49.	The Registration of Births, Deaths and Marriages (Scotland) Act 1965.	In section 18(2)(c), the words “within the like period”. In section 43(3), the words from “in this definition” to the end.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 81, subsection (1); in subsection (2) the words “for aliment” where second occurring; and, in subsection (3), the words from the beginning to “section or”.

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1968 c. 70.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1968.	Sections 1 to 6.  In section 7, the words from the beginning to “this Act”.  In section 11, in subsection (1), paragraph (b) and the preceding “and”, the words “or, as the case may be, is (or was) the father of that child” and the words “or paternity”; in subsection (2) the words from “or to” to “section”, the words from “or, as” to “child” and the words “or affiliation”; in subsection (3) the words “or affiliation”; and in subsection (6) paragraph (b).
1973 c. 29.	The Guardianship Act 1973.	Section 10. Section 11(6). In section 12(1)(b), the words “under the Guardianship of Infants Act 1886”. Section 15(1)(b). Schedule 4. In Schedule 5, paragraphs 1 to 3.
1973 c. 45.	The Domicile and Matrimonial Proceedings Act 1973.	In Schedule 2, in paragraph 4, the words from “as extended” to the end, and paragraph 8.
Chapter	Short title	Extent of repeal
1975 c. 72.	The Children Act 1975.	In section 47, subsection (1); in subsection (2) the words from “having” to “decided”; subsection (3); and in subsection (5) paragraphs (b) and (c).  In section 48(1), the words from “and for this” to the end.  In section 53, in subsection (1), the words from “the applicant” to “child and”.
...	...	...



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F24	F24	F24
		Section 19.
1977 c. 15.	The Marriage (Scotland) Act 1977.	Section 2(2)(b) and the word “and” preceding it.
1978 c. 28.	The Adoption (Scotland) Act 1978.	In section 65(1), in paragraph (a) of the definition of “guardian”, the words from “in accordance” to “1971”.
1983 c. 12.	The Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983.	In Schedule 1, paragraphs 3 and 4.

#### Textual Amendments

**F24** Entry relating to Supplementary Benefits Act 1976 repealed by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), ss. 86, 87(4)(5), **Sch. 11**

**Status:**

Point in time view as at 05/12/2005.

**Changes to legislation:**

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