

*Status: Point in time view as at 25/09/1991.*

**Changes to legislation:** Law Reform (Parent and Child) (Scotland) Act 1986, SCHEDULE 1 is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 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 ..... F1

#### Textual Amendments

F1 Sch. 1 para. 2 repealed by Court of Session Act 1988 (c. 36, SIF 36:1), s. 52(2), Sch. 2 Pt.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)*

3 In section 5 (extension of jurisdiction), after paragraph (2B) there shall be inserted—

“(2C) Applications for orders relating to parental rights under section 3 of the Law Reform (Parent and Child) (Scotland) Act 1986”.

##### *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>F2</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>F2</sup> . . . for the word “charge” there shall be substituted the words “ custody or charge ”.

**Textual Amendments**

**F2** 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>F3</sup>

**Textual Amendments**

**F3** 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>F4</sup>

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**Textual Amendments**

**F4** 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>F5</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**

**F5** 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>F6</sup>

**Textual Amendments**

**F6** Sch. 1 para. 16 repealed by Social Security Act 1986 (c. 50, SIF 113:1), ss. 86, 87(4)(5), Sch. 11

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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**

**F7** 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”.



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