



Children (Scotland) Act 1995

CHAPTER 36

CHILDREN (SCOTLAND) ACT 1995

PART I

PARENTS, CHILDREN AND GUARDIANS

Parental responsibilities and parental rights

- 1 Parental responsibilities.
- 2 Parental rights.
- 3 Provisions relating both to parental responsibilities and to parental rights.
- 4 Acquisition of parental rights and responsibilities by natural father.
- 4A Acquisition of parental responsibilities and parental rights by second female parent by agreement with mother
- 5 Care or control of child by person without parental responsibilities or parental rights.
- 6 Views of children.

Guardianship

- 7 Appointment of guardians.
- 8 Revocation and other termination of appointment.

Administration of child's property

- 9 Safeguarding of child's property.
- 10 Obligations and rights of person administering child's property.

Court Orders

- 11 Court orders relating to parental responsibilities etc.

Status: Point in time view as at 04/04/2005.

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- 11A Restriction on making of orders under section 11
- 12 Restrictions on decrees for divorce, separation or annulment affecting children.
- 13 Awards of damages to children.

Jurisdiction and choice of law

- 14 Jurisdiction and choice of law in relation to certain matters.

Interpretation

- 15 Interpretation of Part I.

PART II

PROMOTION OF CHILDREN'S WELFARE BY LOCAL
AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

CHAPTER 1

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Introductory

- 16 Welfare of child and consideration of his views.
- 17 Duty of local authority to child looked after by them.
- 18 Duty of persons with parental responsibilities to notify change of address to local authority looking after child.

Provision of services

- 19 Local authority plans for services for children.
- 20 Publication of information about services for children.
- 21 Co-operation between authorities.
- 22 Promotion of welfare of children in need.
- 23 Children affected by disability.
- 24 Assessment of ability of carers to provide care for disabled children.
- 24A Duty of local authority to provide information to carer of disabled child
- 25 Provision of accommodation for children, etc.
- 26 Manner of provision of accommodation to child looked after by local authority.
- 27 Day care for pre-school and other children.
- 28 Removal of power to arrange for emigration of children.

Advice and assistance for young persons formerly looked after by local authorities

- 29 After-care.
- 30 Financial assistance towards expenses of education or training and removal of power to guarantee indentures etc.

Miscellaneous and General

- 31 Review of case of child looked after by local authority.
- 32 Removal of child from residential establishment.
- 33 Effect of orders etc. made in different parts of the United Kingdom.
- 34 Registration and inspection of certain residential grant-aided and independent schools etc.

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- 35 Welfare of children in accommodation provided for purposes of school attendance.
- 36 Welfare of certain children in hospitals and nursing homes etc.
- 37 Modification of provisions of Children Act 1989 regarding disqualification from registration as child minder etc.
- 38 Short-term refuges for children at risk of harm.

CHAPTER 2

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Constitution of children's hearings

- 39 Formation of children's panel and children's hearings.

Qualifications, employment and duties of reporters

- 40 Qualification and employment of reporters.

Safeguards for children

- 41 Safeguarding child's interests in proceedings.

Conduct of proceedings at and in connection with children's hearing

- 42 Power of Secretary of State to make rules governing procedure at children's hearing etc.
- 43 Privacy of proceedings at and right to attend children's hearing.
- 44 Prohibition of publication of proceedings at children's hearing.
- 45 Attendance of child and relevant person at children's hearing.
- 46 Power to exclude relevant person from children's hearing.
- 47 Presumption and determination of age.

Transfer etc. of cases

- 48 Transfer of case to another children's hearing.
- 49 Referral or remission to children's hearing where child guilty of an offence.
- 50 Treatment of child's case on remission by court.

Appeals

- 51 Appeal against decision of children's hearing or sheriff.

CHAPTER 3

PROTECTION AND SUPERVISION OF CHILDREN

Children requiring compulsory measures of supervision

- 52 Children requiring compulsory measures of supervision.

Preliminary and investigatory measures

- 53 Provision of information to the Principal Reporter.
- 54 Reference to the Principal Reporter by court.
- 55 Child assessment orders.

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56 Initial investigation by the Principal Reporter.

Measures for the emergency protection of children

- 57 Child protection orders.
- 58 Directions in relation to contact and exercise of parental responsibilities and parental rights.
- 59 Initial hearing of case of child subject to child protection order.
- 60 Duration, recall or variation of child protection order.
- 61 Emergency protection of children where child protection order not available.
- 62 Regulations in respect of emergency child protection measures.

Children arrested by the police

63 Review of case of child arrested by police.

Business meeting preparatory to children's hearing

64 Business meeting preparatory to children's hearing.

Referral to, and disposal of case by, children's hearing

- 65 Referral to, and proceedings at, children's hearing.
- 66 Warrant to keep child where children's hearing unable to dispose of case.
- 67 Warrant for further detention of child.
- 68 Application to sheriff to establish grounds of referral.
- 68A Restrictions on evidence in certain cases involving sexual abuse
- 68B Exceptions to restrictions under section 68A
- 69 Continuation or disposal of referral by children's hearing.
- 70 Disposal of referral by children's hearing: supervision requirements, including residence in secure accommodation.
- 71 Duties of local authority with respect to supervision requirements.
- 71A Enforcement of local authorities' duties under section 71
- 72 Transfer of child subject to supervision requirement in case of necessity.
- 73 Duration and review of supervision requirement.
- 74 Further provision as respects children subject to supervision requirements.
- 75 Powers of Secretary of State with respect to secure accommodation.

Parenting orders

75A Requirement on Principal Reporter to consider application for parenting order

Failure to provide education for excluded pupils

75B Failure to provide education for excluded pupils: reference to Scottish Ministers

Exclusion orders

- 76 Exclusion orders.
- 77 Effect of, and orders etc. ancillary to, exclusion order.
- 78 Powers of arrest etc. in relation to exclusion order.

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- 79 Duration, variation and recall of exclusion order.
- 80 Exclusion orders: supplementary provisions.

Offences in connection with orders etc. for protection of children

- 81 Offences in connection with orders etc. for protection of children.

Fugitive children and harbouring

- 82 Recovery of certain fugitive children.
- 83 Harbouring.

Implementation of authorisations etc.

- 84 Implementation of authorisations etc.

New evidence: review of establishment of grounds of referral

- 85 Application for review of establishment of grounds of referral.

CHAPTER 4

PARENTAL RESPONSIBILITIES ORDERS, ETC.

Parental responsibilities orders

- 86 Parental responsibilities order: general.
- 86A The provisions of this Chapter are subject to Sections 2...
- 87 Further provision as respects parental responsibilities orders.
- 88 Parental contact.
- 89 Offences in relation to parental responsibilities orders.

Miscellaneous

- 90 Consent of child to certain procedures.
- 91 Procedural rules in relation to certain applications etc.
- 92 Legal aid in respect of certain proceedings.

Interpretation of Part II

- 93 Interpretation of Part II.

PART III

ADOPTION

- 94 Approval of adoption society for specific services.
- 95 Welfare of child paramount consideration.
- 96 Duty of adoption agency to consider alternatives to adoption.
- 97 Adoption by person married to natural parent.
- 98 Further amendments of the 1978 Act; and interpretation of Part III.

PART IV

GENERAL AND SUPPLEMENTAL

- 99 Registration of births by persons who are themselves children.
- 100 Inquiries into matters affecting children.

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- 101 Panel for curators *ad litem*, reporting officers and safeguarders.
- 102 Removal of duty to report on operation of Children Act 1975.
- 103 Interpretation, rules, regulations and Parliamentary control.
- 104 Financial provision.
- 105 Extent, short title, minor and consequential amendments, repeals and commencement.

SCHEDULES

SCHEDULE 1 — Children's Panels

Appointment

- 1 The Secretary of State shall, for each local government area,...
- 2 A member of a children's panel shall hold office for...

Children's Panel Advisory Committees

- 3 Subject to paragraph 8 below, each local authority shall form...
- 4 The Secretary of State may at the request of the...
- 5 The chairman of the Children's Panel Advisory Committee shall be...
- 6 It shall be the duty of the Children's Panel Advisory...
- 7 The Children's Panel Advisory Committee shall have power—

Joint Advisory Committees

- 8 (1) Two or more local authorities may, instead of each...

Recruitment and training of panel members

- 9 The Secretary of State may make such arrangements as he...
- 10 Each local authority shall make such arrangements as they consider...

Expenses of panel members

- 11 A local authority may pay— (a) to a member or...

Publication of list of members of children's panel

- 12 Each local authority shall publish a list of names and...

SCHEDULE 2 — Amendments of the Adoption (Scotland) Act 1978

- 1 The Adoption (Scotland) Act 1978 shall be amended in accordance...
- 2 In section 1(2) (facilities to be provided as part of...
- 3
- 4 Section 8 (direction where adoption society inactive or defunct) shall...
- 5 In section 9 (regulations relating to an adoption agency's exercise...
- 6 In section 11(3) (offence of receiving child illegally placed for...
- 7 In section 12 (adoption orders)— (a) in subsection (1)—
- 8 In section 14 (adoption by married couple)—
- 9 In section 15 (adoption by one person)—
- 10 In section 16 (provision for parental agreement to adoption order)—...
- 11 In section 18 (making and effect of orders freeing for...
- 12 In section 19 (progress reports)— (a) in subsection (1)—
- 13 In section 20 (revocation of order under section 18)—

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- 14 In section 21 (variation of order under section 18 so...
- 15 After section 22 insert— Children subject to supervision requirements.
(1) An approved adoption society shall refer the case of...
- 16 In section 24 (restrictions on making adoption orders), for subsection...
- 17 In section 25(1) (making of interim order and preconditions for...
- 18 After section 25 insert— Timetable for resolving question as to...
- 19 In section 27 (restrictions on removal of a child by...
- 20 In section 28 (restriction on removal of child from care...
- 21 Sections 32 to 37 (protected children) shall cease to have...
- 22 In section 45(5) (restrictions as to persons to whom information...
- 23 In section 49(1) (adoption of children abroad), for the words...
- 24 In section 51 (prohibition on certain payments)—
- 25 After section 51 insert— Adoption allowances schemes. (1) Subject to
subsection (2), an adoption agency which is—...
- 26 In section 58 (curators ad litem and reporting officers), in subsection...
- 27 In section 59(4) (disapplication of provisions regarding rules), for the...
- 28 In section 60(3) (affirmative procedure for certain orders), the words...
- 29 In section 65 (interpretation)— (a) in subsection (1)—

SCHEDULE 3 — Transitional Provisions And Savings

- 1 Where, immediately before the day appointed for the coming into...
- 2 Sections 29 and 30 of this Act shall apply in...
- 3 Where the parental rights in respect of a child have,...
- 4 Where the parental rights in respect of a child have,...
- 5 Where the circumstance by virtue of which a resolution under...
- 6 While a resolution continues to have effect by virtue of...
- 7 Where an order made under— (a) section 10 (power of...
- 8 (1) Where relevant proceedings in relation to a child have...
- 9 Where a child has been taken to a place of...
- 10 (1) Where on the relevant date a child is subject...
- 11 In this Schedule— “the 1968 Act” means the Social Work...

SCHEDULE 4 — Minor and Consequential Amendments

Lands Clauses Consolidation (Scotland) Act 1845 (c.19)

- 1 (1) The Lands Clauses Consolidation (Scotland) Act 1845 shall be...

Judicial Factors (Scotland) Act 1849 (c.51)

- 2 (1) The Judicial Factors (Scotland) Act 1849 shall be amended...

Improvement of Land Act 1864 (c.114)

- 3 In section 24 of the Improvement of Land Act 1864...

Judicial Factors (Scotland) Act 1880 (c.4)

- 4 In section 3 of the Judicial Factors (Scotland) Act 1880...

Heritable Securities (Scotland) Act 1894 (c.44)

- 5 In section 13 of the Heritable Securities (Scotland) Act 1894...

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Trusts (Scotland) Act 1921 (c.58)

6 In section 2 of the Trusts (Scotland) Act 1921 (interpretation)—...

Children and Young Persons (Scotland) Act 1937 (c. 37)

7 (1) The Children and Young Persons (Scotland) Act 1937 shall...

Mines and Quarries Act 1954 (c. 70)

8 In section 182(1) of the Mines and Quarries Act 1954...

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

9 In section 11(1) of the Matrimonial Proceedings (Children) Act 1958...

Factories Act 1961 (c. 34)

10 In section 176(1) of the Factories Act 1961 (interpretation)—

Education (Scotland) Act 1962 (c. 47)

11 In section 145(33) of the Education (Scotland) Act 1962 (interpretation),...

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

12 (1) The Registration of Births, Deaths and Marriages (Scotland) Act...
13 Where, at any time after the coming into force of...

Law Reform (Miscellaneous Provisions)(Scotland) Act 1966 (c.19)

14 In section 8 of the Law Reform (Miscellaneous Provisions)(Scotland) Act...

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

15 (1) The Social Work (Scotland) Act 1968 shall be amended...

Children and Young Persons Act 1969 (c. 54)

16 In Schedule 5 to the Children and Young Persons Act...

Chronically Sick and Disabled Persons Act 1970 (c. 44)

17 (1) The Chronically Sick and Disabled Persons Act 1970 shall...

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

18 (1) The Sheriff Courts (Scotland) Act 1971 shall be amended...

Employment of Children Act 1973 (c. 24)

19 In section 2(2A) of the Employment of Children Act 1973...

Domicile and Matrimonial Proceedings Act 1973 (c. 45)

20 (1) The Domicile and Matrimonial Proceedings Act 1973 shall be...

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Land Compensation (Scotland) Act 1973 (c.56)

21 (1) The Land Compensation (Scotland) Act 1973 shall be amended...

Local Government (Scotland) Act 1973 (c. 65)

22 (1) The Local Government (Scotland) Act 1973 shall be amended...

Rehabilitation of Offenders Act 1974 (c. 53)

23 (1) The Rehabilitation of Offenders Act 1974 shall be amended...

Criminal Procedure (Scotland) Act 1975 (c. 21)

24

Local Government (Scotland) Act 1975 (c. 30)

25

Children Act 1975 (c. 72)

26 (1) The Children Act 1975 shall be amended in accordance...

Sexual Offences (Scotland) Act 1976 (c. 67)

27

Education (Scotland) Act 1980 (c. 44)

28 (1) The Education (Scotland) Act 1980 shall be amended in...

Criminal Justice (Scotland) Act 1980 (c. 62)

29

Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59)

30 In section 22 of the Matrimonial Homes (Family Protection) (Scotland)...

Civil Jurisdiction and Judgments Act 1982 (c. 27)

31 In Schedule 9 to the Civil Jurisdiction and Judgments Act...

Health and Social Services and Social Security Adjudications Act 1983 (c. 41)

32 In Schedule 2 to the Health and Social Services and...

Mental Health (Scotland) Act 1984 (c. 36)

33 (1) The Mental Health (Scotland) Act 1984 shall be amended...

Child Abduction Act 1984 (c. 37)

34 In section 6 of the Child Abduction Act 1984 (offence...

Foster Children (Scotland) Act 1984 (c.56)

35 (1) The Foster Children (Scotland) Act 1984 shall be amended...

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

36 In section 2 of the Family Law (Scotland) Act 1985...

Child Abduction and Custody Act 1985 (c. 60)

37 (1) The Child Abduction and Custody Act 1985 shall be...

Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9)

38 (1) The Law Reform (Parent and Child) (Scotland) Act 1986...

Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

39 (1) The Disabled Persons (Services, Consultation and Representation) Act 1986...

Legal Aid (Scotland) Act 1986 (c. 47)

40 In section 41 of the Legal Aid (Scotland) Act 1986...

Family Law Act 1986 (c. 55)

41 (1) The Family Law Act 1986 shall be amended in...

Housing (Scotland) Act 1987 (c. 26)

42

Criminal Justice (Scotland) Act 1987 (c. 41)

43 In section 49(4)(b) of the Criminal Justice (Scotland) Act 1987...

Civil Evidence (Scotland) Act 1988 (c. 32)

44 In paragraph (a) of the definition of “civil proceedings” in...

Court of Session Act 1988 (c. 36)

45 In section 5 of the Court of Session Act 1988...

School Boards (Scotland) Act 1988 (c. 47)

46 In section 22(2) of the School Boards (Scotland) Act 1988...

Self-Governing Schools etc. (Scotland) Act 1989 (c. 39)

47 In section 80(1) of the Self-Governing Schools etc. (Scotland) Act...

Children Act 1989 (c. 41)

48 (1) The Children Act 1989 shall be amended in accordance...

Local Government and Housing Act 1989 (c. 42)

49 (1) The Local Government and Housing Act 1989 shall be...

Access to Health Records Act 1990 (c. 23)

50 (1) The Access to Health Records Act 1990 shall be...

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Horses (Protective Headgear for Young Riders) Act 1990 (c. 25)

- 51 In section 1(2)(a)(ii) (application), of the Horses (Protective Headgear for...

Child Support Act 1991 (c. 48)

- 52 (1) The Child Support Act 1991 shall be amended in...

Age of Legal Capacity (Scotland) Act 1991 (c. 50)

- 53 (1) The Age of Legal Capacity (Scotland) Act 1991 shall...

Armed Forces Act 1991 (c. 62)

- 54 (1) The Armed Forces Act 1991 shall be amended in...

Tribunals and Inquiries Act 1992 (c. 53)

- 55 In paragraph 61 in column 2 of Schedule 1 to...

Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)

- 56 (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 shall...

Local Government etc. (Scotland) Act 1994 (c. 39)

- 57 (1) The Local Government etc. (Scotland) Act 1994 shall be...

Children (Northern Ireland) Order 1995 (SI 1995/755 (N.I.2))

- 58 In Article 70(7) of the Children (Northern Ireland) Order 1995...

Civil Evidence (Family Mediation)(Scotland) Act 1995 (c. 6)

- 59 In section 2 of the Civil Evidence (Family Mediation) (Scotland)...

Criminal Justice (Scotland) Act 1995 (c. 20)

- 60 In section 20 of the Criminal Justice (Scotland) Act 1995...

SCHEDULE 5 — Repeals

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