



Children (Scotland) Act 1995

1995 CHAPTER 36

PART I

PARENTS, CHILDREN AND GUARDIANS

Guardianship

7 Appointment of guardians.

- (1) A child's parent may appoint a person to be guardian of the child in the event of the parent's death; but—
 - (a) such appointment shall be of no effect unless—
 - (i) in writing and signed by the parent; and
 - (ii) the parent, at the time of death, was entitled to act as legal representative of the child (or would have been so entitled if he had survived until after the birth of the child); and
 - (b) any parental responsibilities or parental rights (or the right to appoint a further guardian under this section) which a surviving parent has in relation to the child shall subsist with those which, by, under or by virtue of this Part of this Act, the appointee so has.
- (2) A guardian of a child may appoint a person to take his place as guardian in the event of the guardian's death; but such appointment shall be of no effect unless in writing and signed by the person making it.
- (3) An appointment as guardian shall not take effect until accepted, either expressly or impliedly by acts which are not consistent with any other intention.
- (4) If two or more persons are appointed as guardians, any one or more of them shall, unless the appointment expressly provides otherwise, be entitled to accept office even if both or all of them do not accept office.
- (5) Subject to any order under section 11 or 86 of this Act, a person appointed as a child's guardian under this section shall have, in respect of the child, the responsibilities

Changes to legislation: Children (Scotland) Act 1995, Cross Heading: Guardianship is up to date with all changes known to be in force on or before 13 April 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) [View outstanding changes](#)

imposed, and the rights conferred, on a parent by sections 1 and 2 of this Act respectively; and sections 1 and 2 of this Act shall apply in relation to a guardian as they apply in relation to a parent.

- (6) Without prejudice to the generality of subsection (1) of section 6 of this Act, a decision as to the appointment of a guardian under subsection (1) or (2) above shall be regarded for the purposes of that section (or of that section as applied by subsection (5) above) as a major decision which involves exercising a parental right.

Modifications etc. (not altering text)

C1 S. 7(5) extended (*temp.* from 22.8.1996 to 1.4.1997) by S.I. 1996/2203, art. 5(a)

8 Revocation and other termination of appointment.

- (1) An appointment made under section 7(1) or (2) of this Act revokes an earlier such appointment (including one made in an unrevoked will or codicil) made by the same person in respect of the same child, unless it is clear (whether as a result of an express provision in the later appointment or by any necessary implication) that the purpose of the later appointment is to appoint an additional guardian.
- (2) Subject to subsections (3) and (4) below, the revocation of an appointment made under section 7(1) or (2) of this Act (including one made in an unrevoked will or codicil) shall not take effect unless the revocation is in writing and is signed by the person making the revocation.
- (3) An appointment under section 7(1) or (2) of this Act (other than one made in a will or codicil) is revoked if, with the intention of revoking the appointment, the person who made it—
- (a) destroys the document by which it was made; or
 - (b) has some other person destroy that document in his presence.
- (4) For the avoidance of doubt, an appointment made under section 7(1) or (2) of this Act in a will or codicil is revoked if the will or codicil is revoked.
- (5) Once an appointment of a guardian has taken effect under section 7 of this Act, then, unless the terms of the appointment provide for earlier termination, it shall terminate only by virtue of—
- (a) the child concerned attaining the age of eighteen years;
 - (b) the death of the child or the guardian; or
 - (c) the termination of the appointment by a court order under section 11 of this Act.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to [legislation.gov.uk](#). These Regulations never came into effect, having been revoked before coming into force by [S.I. 2010/1906, reg. 2](#))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 3\(3A\)\(ba\)](#) inserted by [2009 c. 24 Sch. 6 para. 25](#)
- [s. 4B](#) inserted by [2020 asp 16 s. 28\(2\)](#)
- [s. 6\(1A\)-\(1D\)](#) inserted by [2020 asp 16 s. 1\(2\)\(b\)](#)
- [s. 10\(1A\)](#) inserted by [2024 asp 2 Sch. 1 para. 18\(b\)](#)
- [s. 11\(14\)](#) inserted by [2020 asp 16 s. 10\(2\)\(b\)](#)
- [s. 11B11C](#) inserted by [2020 asp 16 s. 8\(2\)](#)
- [s. 11B\(2\)](#) power to amend conferred by [2020 asp 16 s. 32](#)
- [s. 11D](#) inserted by [2020 asp 16 s. 17\(2\)](#)
- [s. 11D\(3\)](#) power to amend conferred by [2020 asp 16 s. 32](#)
- [s. 11E](#) inserted by [2020 asp 16 s. 18\(2\)](#)
- [s. 11F](#) inserted by [2020 asp 16 s. 20\(2\)](#)
- [s. 11G](#) inserted by [2020 asp 16 s. 22\(2\)](#)
- [s. 11ZA11ZB](#) inserted by [2020 asp 16 s. 1\(4\)](#)
- [s. 11ZA\(2A\)](#) inserted by [2020 asp 16 s. 30\(2\)](#)
- [s. 11ZA\(3\)\(f\)](#) inserted by [2020 asp 16 s. 16\(2\)](#)
- [s. 16\(1A\)](#) inserted by [2020 asp 16 s. 30\(3\)](#)
- [s. 16\(2\)-\(2B\)](#) substituted for [s. 16\(2\)](#) by [2020 asp 16 s. 1\(6\)](#)
- [s. 100A](#) inserted by [2020 asp 16 s. 21\(2\)](#)
- [s. 101D](#) inserted by [2020 asp 16 s. 11\(2\)](#)
- [s. 101E](#) inserted by [2020 asp 16 s. 12\(2\)](#)