



Children (Scotland) Act 1995

1995 CHAPTER 36

PART I

PARENTS, CHILDREN AND GUARDIANS

Interpretation

15 Interpretation of Part I.

(1) In this Part of this Act—

“child” means, where the expression is not otherwise defined, a person under the age of eighteen years;

“contact order” has the meaning given by section 11(2)(d) of this Act;

“parent”, in relation to any person, means, subject to Part IV of the ^{M1}Adoption (Scotland) Act 1978 and sections 27 to 30 of the ^{M2}Human Fertilisation and Embryology Act 1990 [^{F1}and Part 2 of the Human Fertilisation and Embryology Act 2008] and any regulations made under [^{F2}section 55(1) of that Act of 2008][^{F3}and Chapter 3 of Part 1 of the Adoption and Children (Scotland) Act 2007 (asp 4)], someone, of whatever age, who is that person’s genetic father or mother;

“parental responsibilities” has the meaning given by section 1(3) of this Act;

“parental rights” has the meaning given by section 2(4) of this Act;

“residence order” has the meaning given by section 11(2)(c) of this Act;

“specific issue order” has the meaning given by section 11(2)(e) of this Act; and

“transaction” has the meaning given by section 9 of the ^{M3}Age of Legal Capacity (Scotland) Act 1991 (except that, for the purposes of subsection (5) (b) below, paragraph (d) of the definition in question shall be disregarded).

(2) No provision in this Part of this Act shall affect any legal proceedings commenced, or any application made to a court, before that provision comes into effect; except that where, before section 11 of this Act comes into force, there has been final decree in a

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cause in which, as respects a child, an order for custody or access, or an order which is analogous to any such order as is mentioned in subsection (2) of that section, has been made, any application on or after the date on which the section does come into force for variation or recall of the order shall proceed as if the order had been made under that section.

- (3) In subsection (2) above, the reference to final decree is to a decree or interlocutor which, taken by itself or along with previous interlocutors, disposes of the whole subject matter of the cause.
- (4) Any reference in this Part of this Act to a person—
- (a) having parental rights or responsibilities;
 - (b) acting as a legal representative; or
 - (c) being appointed a guardian,
- is to a natural person only.
- (5) Any reference in this Part of this Act to a person acting as the legal representative of a child is a reference to that person, in the interests of the child—
- (a) administering any property belonging to the child; and
 - (b) acting in, or giving consent to, any transaction where the child is incapable of so acting or consenting on his own behalf.
- (6) Where a child has legal capacity to sue, or to defend, in any civil proceedings, he may nevertheless consent to be represented in those proceedings by any person who, had the child lacked that capacity, would have had the responsibility to act as his legal representative.
- [^{F4}(7) No provision in this Part of this Act shall permit a person to give a consent to the storage of gametes under the Human Fertilisation and Embryology Act 1990 on behalf of a child.]

Textual Amendments

- F1** S. 15(1): words in the definition of "parent" inserted (6.4.2009 for certain purposes, otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68, [Sch. 6 para. 54\(a\)](#); S.I. 2009/479, [art. 6\(1\)\(e\)\(2\)](#) (as amended by S.I. 2009/2232, art. 3)
- F2** S. 15(1): words in the definition of "parent" substituted (6.4.2009 for certain purposes, otherwise 6.4.2010) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68, [Sch. 6 para. 54\(b\)](#); S.I. 2009/479, [art. 6\(1\)\(e\)](#) (as amended by S.I. 2009/2232, art. 3); S.I. 2010/987, [art. 2\(g\)](#)
- F3** S. 15(1), in the definition of "parent": words inserted (28.9.2009) after "30" [semble in the second place where "30" appeared when the amending Act was enacted] by [Adoption and Children \(Scotland\) Act 2007 \(asp 4\)](#), ss. 120(1), 121(2), [Sch. 2 para. 9\(3\)](#); S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21)
- F4** S. 15(7) inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 65, 68, [Sch. 7 para. 17](#); S.I. 2009/2232, [art. 2](#)

Marginal Citations

- M1** 1978 c.28.
M2 1990 c.37.
M3 1991 c.50.

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](#))
- Act power to modify conferred by [2010 asp 8, s. 190\(2A\)](#) (as substituted) by [2024 asp 5 s. 29\(2\)\(b\)](#)

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. 17A inserted by [2024 asp 5 s. 24\(2\)](#)
- s. 33A inserted by [2024 asp 5 s. 30\(2\)](#)
- 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\(2\)](#)