



Children (Scotland) Act 1995

1995 CHAPTER 36

PART IV

GENERAL AND SUPPLEMENTAL

99 Registration of births by persons who are themselves children.

- (1) In paragraph (a) of section 14(1) of the ^{M1}Registration of Births, Deaths and Marriages (Scotland) Act 1965 (duty of father and mother to give information of particulars of birth), for the words “father or mother of the child” substitute “child’s father or mother (whether or not they have attained the age of sixteen years)”.
- (2) Where, at any time after the coming into force of the ^{M2}Age of Legal Capacity (Scotland) Act 1991 but before the coming into force of subsection (1) above, a person mentioned in the said paragraph (a) who had not at that time attained the age of sixteen years purported to fulfill the duty mentioned in the said section 14(1), he shall be presumed to have had legal capacity to fulfill that duty.
- (3) In section 18 of the said Act of 1965 (registration of birth of child born out of wedlock), after subsection (2) add—
 - “(3) A person under the age of sixteen years has legal capacity—
 - (a) to make a request, declaration or statutory declaration under subsection (1) or (2)(b) above if, in the opinion of the registrar; or
 - (b) to make an application under subsection (2)(c) above if, in the opinion of the sheriff,
that person understands the nature of the request or, as the case may be, of the declaration, statutory declaration or application; and without prejudice to the generality of this subsection a person twelve years of age or more shall be presumed to be of sufficient age and maturity to have such understanding.”.
- (4) Where, at any time after the coming into force of the ^{M3}Age of Legal Capacity (Scotland) Act 1991 but before the coming into force of subsection (3) above, a person who had not at that time attained the age of sixteen years made a request, declaration, statutory declaration or application mentioned in subsection (1) or (2) of the said

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section 18 in relation to a child in respect of whose birth an entry was consequently made under the said subsection (1) in a register of births, or as the case may be under the said subsection (2) in the Register of Corrections etc., the person shall be presumed to have had legal capacity to make the request, declaration, statutory declaration, or application in question.

Marginal Citations

- M1** 1965 c.49.
M2 1991 c.50.
M3 1991 c.50.

100 Inquiries into matters affecting children.

After section 6A of the ^{M4}Social Work (Scotland) Act 1968 there shall be inserted—

“6B Local authority inquiries into matters affecting children.

- (1) Without prejudice to section 6A(1) of this Act, a local authority may cause an inquiry to be held into their functions under this Act, or any of the enactments mentioned in section 5(1B) of this Act, in so far as those functions relate to children.
- (2) The local authority may, before an inquiry under this section is commenced, direct that it be held in private; but where no such direction is given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.
- (3) Subsections (2) to (6) of section 210 of the ^{M5}Local Government (Scotland) Act 1973 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section, so however that, for the purposes of the application, any reference in those subsections to a Minister shall be construed as a reference to the local authority and any reference to an officer of his Department as a reference to an officer of that authority.
- (4) The expenses incurred by a local authority in relation to an inquiry under this section (including such reasonable sum as the authority may determine for the services of any of their officers engaged in the inquiry) shall, unless the authority are of the opinion that those expenses should be defrayed in whole or in part by them, be paid by such party to the inquiry as they may direct; and the authority may certify the amount of the expenses so incurred.
- (5) Any sum certified under subsection (4) above and to be defrayed in accordance with a direction under that subsection shall be a debt due by the party directed and shall be recoverable accordingly.
- (6) The local authority may make an award as to the expenses of the parties at the inquiry and as to the parties by whom such expenses shall be paid.”.

Marginal Citations

- M4** 1968 c.49.

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M5 1973 c.45.

101 Panel for curators *ad litem*, reporting officers and safeguarders.

- [^{F1}(1) The Scottish Ministers may by regulations make provision for the establishment of one or more of each of the following—
- (a) a panel of persons from which curators *ad litem* may be appointed [^{F2}by virtue of section 108 of the Adoption and Children (Scotland) Act 2007 (asp 4)] or under section 87(4) of this Act;
 - (b) a panel of persons from which reporting officers may be appointed under either of those sections; and
 - (c) a panel of persons from which appointments may be made under section 41(1) of this Act.]
- (2) Regulations under subsection (1) above may provide, without prejudice to generality of that subsection—
- (a) for the appointment, qualifications and training of persons who may be appointed to [^{F3}those panels]; and
 - (b) for the management and organisation of persons available for appointment from [^{F3}those panels].
- [^{F4}(3) Regulations under subsection (1) above may provide—
- (a) for the defrayment by local authorities of expenses incurred by members of any panel established by virtue of that subsection; and
 - (b) for the payment by local authorities of fees and allowances for such members.
- (4) Paragraphs 9 and 10(b) of Schedule 1 to this Act shall apply in relation to any panel established by virtue of subsection (1)(c) above as they apply in relation to children's panels.]

Textual Amendments

- F1** S. 101(1) substituted (19.7.2001) by 2001 asp 8, **ss. 75(a)**, 81(2)
- F2** Words in s. 101(1)(a) substituted (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), **ss. 120(1)**, 121(2), **Sch. 2 para. 9(9)**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21)
- F3** Words in s. 101(2)(a)(b) substituted (19.7.2001) by virtue of 2001 asp 8, **ss. 75(b)**, 81(2)
- F4** S. 101: subsections (3) and (4) substituted for subsection (3) (19.7.2001) by 2001 asp 8, **ss. 75(c)**, 81(2)

Commencement Information

- I1** S. 101 wholly in force at 22.1.2002; s. 101 not in force at Royal Assent see s. 105(1); s. 101 in force for certain purposes at 12.12.1996 by S.I. 1996/3201, **art. 3(1)** (with arts. 4-6 (as inserted (7.3.1997) by S.I. 1997/744, **art. 3**)); s. 101 wholly in force at 22.1.2002 by S.S.I. 2001/475, **art. 2**

102 Removal of duty to report on operation of Children Act 1975.

Section 105 of the ^{M6}Children Act 1975 (which among other things provides that every five years there shall be laid before Parliament by the Secretary of State a report on the operation of such sections of that Act as are for the time being in force) shall cease to have effect.

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Marginal Citations

M6 1975 c.42.

103 Interpretation, rules, regulations and Parliamentary control.

- (1) Any reference in this Act, or in any enactment amended by this Act, to a person having, or to there being vested in him, parental responsibilities or parental rights shall, unless the context otherwise requires, be construed as a reference to his having, or to there being so vested, any of those rights or as the case may be responsibilities.
- (2) Any reference in this Act to something being “prescribed” is, unless the context otherwise requires, a reference to its being prescribed by regulations; and any power conferred by this Act on the Secretary of State or the Lord Advocate to make rules or regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Rules or regulations made under this Act—
 - (a) may make different provision for different cases or classes of case; and
 - (b) may exclude certain cases or classes of case.

104 Financial provision.

There shall be paid out of money provided by Parliament—

- (a) any expenses of the Secretary of State incurred in consequence of the provisions of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

105 Extent, short title, minor and consequential amendments, repeals and commencement.

- (1) This Act, which subject to subsections (8) to (10) below extends to Scotland only—
 - (a) may be cited as the Children (Scotland) Act 1995; and
 - (b) except for subsections (1), (2) and (6) to (10) of this section, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint;

and different days may be appointed under paragraph (b) above for different purposes.
- (2) An order under subsection (1)(b) above may contain such transitional and consequential provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions brought into force.
- (3) The transitional provisions and savings contained in Schedule 3 to this Act shall have effect but are without prejudice to sections 16 and 17 of the^{M7} Interpretation Act 1978 (effect of repeals).
- (4) Schedule 4 to this Act, which contains minor amendments and amendments consequential upon the provisions of this Act, shall have effect.
- (5) The enactments mentioned in Schedule 5 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

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- (6) The Secretary of State may by order made by statutory instrument make such further amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.
- (7) A statutory instrument containing an order under subsection (6) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Sections 18, 26(2), 33, 44, 70(4), 74, 82, 83, 93 and 104 of this Act and this section extend to England and Wales, and those sections and this section (except section 70(4)) also extend to Northern Ireland; but—
- (a) subsection (4) of this section so extends—
- (i) to England and Wales, only in so far as it relates to paragraphs 8, 10, 19, 31, 37, 41(1), (2) and (7) to (9), 48 to 52, 54 and 55 of Schedule 4; and
- (ii) to Northern Ireland, only in so far as it relates to paragraphs 31, 37, 41(1), (2) and (7) to (9), 54, 55 and 58 of that Schedule; and
- (b) subsection (5) of this section so extends—
- (i) to England and Wales, only in so far as it relates to the entries in Schedule 5 in respect of Part V of the ^{M8}Social Work (Scotland) Act 1968, the ^{M9}Maintenance Orders (Reciprocal Enforcement) Act 1972, section 35(4)(c) of the ^{M10}Family Law Act 1986, the ^{M11}Children Act 1989, the ^{M12}Child Support Act 1991 and the ^{M13}Education Act 1993; and
- (ii) to Northern Ireland, only in so far as it relates to the entries in that Schedule in respect of Part V of the Social Work (Scotland) Act 1968, the Maintenance Orders (Reciprocal Enforcement) Act 1972 and section 35(4)(c) of the Family Law Act 1986.
- (9) This section, so far as it relates to the repeal of Part V of the Social Work (Scotland) 1968, also extends to the Channel Islands.
- (10) Her Majesty may by Order in Council direct that any of the relevant provisions specified in the Order shall extend, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, to any of the Channel Islands; and in this subsection “the relevant provisions” means sections 74, 82, 83 and 93 of this Act and any regulations made under section 74 of this Act.

Subordinate Legislation Made

- P1** S. 105(1)(b) power partly exercised (24.10.1995): 1.11.1995 appointed for specified provisions by [S.I. 1995/2787](#), [art. 3](#), [Sch.](#)
- S. 105(1)(b) power partly exercised (22.8.1996): different dates appointed for specified provisions by [S.I. 1996/2203](#), [art. 3](#), [Sch.](#) (with [arts. 4-7](#)) (as amended (18.10.1996) by [S.I. 1996/2708](#), [art. 2](#) and (19.1.1997) by [S.I. 1997/137](#), [art. 2](#))
- S. 105(1)(b) power partly exercised (11.12.1996): different dates appointed for specified provisions by [S.I. 1996/3201](#), [art. 3\(1\)-\(7\)](#) (with [arts. 4-6](#)) (as amended (11.12.1996) by [S.I. 1997/744](#), [arts. 2, 3](#))
- S. 105(1) power partly exercised (20.12.2001): 22.1.2002 appointed for specified provisions by [S.S.I. 2001/475](#), [art. 2](#)
- S. 105(1) power partly exercised (21.1.2002): 22.1.2002 appointed for specified provisions and certain purposes by [S.S.I. 2002/12](#) [art. 2](#)

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Commencement Information

- I2** S. 105 wholly in force at 1.4.1997: s. 105(1)(2)(6)-(10) in force at Royal Assent see s. 105(1); s. 105(4)(5) in force for certain purposes at 1.11.1995 by [S.I. 1995/2787](#), [art. 3](#), [Sch.](#); s. 105(3)-(5) in force for certain purposes at 1.11.1996 by [S.I. 1996/2203](#), [art. 3\(3\)](#), [Sch.](#) (with [arts. 4-7](#)) (as amended (19.1.1997) by [S.I. 1997/137](#), [art. 2](#)); s. 105(4) in force for certain purposes at 12.12.1996 by [S.I. 1996/3201](#), [art. 3\(6\)](#) (with [arts. 4-6](#) (as inserted (7.3.1997) by [S.I. 1997/744](#), [art. 3](#))); s. 105 in force at 1.4.1997 insofar as not already in force by [S.I. 1996/3201](#), [art. 3\(7\)](#) (with [arts. 4-6](#)) (as amended (7.3.1997) by [S.I. 1997/744](#), [arts. 2, 3](#))

Marginal Citations

- M7** 1978 c.30.
M8 1968 c.49.
M9 1972 c.18.
M10 1986 c.55.
M11 1989 c.41.
M12 1991 c.48.
M13 1993 c.35.

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