



# Children (Scotland) Act 1995

## 1995 CHAPTER 36

### PART I

#### PARENTS, CHILDREN AND GUARDIANS

##### *Parental responsibilities and parental rights*

### **3 Provisions relating both to parental responsibilities and to parental rights**

- (1) Notwithstanding section 1(1) of the Law Reform (Parent and Child) (Scotland) Act 1986 (provision for disregarding whether a person's parents are not, or have not been, married to one another in establishing the legal relationship between him and any other person)—
  - (a) a child's mother has parental responsibilities and parental rights in relation to him whether or not she is or has been married to his father; and
  - (b) without prejudice to any arrangements which may be made under subsection (5) below and subject to any agreement which may be made under section 4 of this Act, his father has such responsibilities and rights in relation to him only if married to the mother at the time of the child's conception or subsequently.
- (2) For the purposes of subsection (1)(b) above, the father shall be regarded as having been married to the mother at any time when he was a party to a purported marriage with her which was—
  - (a) voidable; or
  - (b) void but believed by them (whether by error of fact or of law) in good faith at that time to be valid.
- (3) Subsection (1) above is without prejudice to any order made under section 11 of this Act or section 3(1) of the said Act of 1986 (provision analogous to the said section 11 but repealed by this Act) or to any other order, disposal or resolution affecting parental responsibilities or parental rights; and nothing in subsection (1) above or in this Part of this Act shall affect any other—

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*Status: This is the original version (as it was originally enacted).*

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- (a) enactment (including any other provision of this Act or of that Act); or
- (b) rule of law,

by, under or by virtue of which a person may have imposed on him (or be relieved of) parental responsibilities or may be granted (or be deprived of) parental rights.

- (4) The fact that a person has parental responsibilities or parental rights in relation to a child shall not entitle that person to act in any way which would be incompatible with any court order relating to the child or the child's property, or with any supervision requirement made under section 70 of this Act.
- (5) Without prejudice to section 4(1) of this Act, a person who has parental responsibilities or parental rights in relation to a child shall not abdicate those responsibilities or rights to anyone else but may arrange for some or all of them to be fulfilled or exercised on his behalf; and without prejudice to that generality any such arrangement may be made with a person who already has parental responsibilities or parental rights in relation to the child concerned.
- (6) The making of an arrangement under subsection (5) above shall not affect any liability arising from a failure to fulfil parental responsibilities; and where any arrangements so made are such that the child is a foster child for the purposes of the Foster Children (Scotland) Act 1984, those arrangements are subject to the provisions of that Act.