



# 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.

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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**

SUPPORT FOR CHILDREN AND THEIR FAMILIES

*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

### CHILDREN'S HEARINGS

#### *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 In section 3(3) (factors to be considered by Secretary of...
- 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 In section 23(2) of the Local Government (Scotland) Act 1975...

*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 In section 61 of the Housing (Scotland) Act 1987 (exemption...

*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

**Status:**

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