
Changes to legislation: Children (Scotland) Act 1995, Paragraph 41 is up to date with all changes known to be in force on or before 19 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

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Family Law Act 1986 (c. 55)

- 41 (1) The Family Law Act 1986 shall be amended in accordance with this paragraph.
- (2) In section 1(1)(b) (meaning of “custody order”)—
- (a) for the words “custody, care or control of a child” substitute “ residence, custody, care or control of a child, contact with or ”; and
 - (b) in sub-paragraph (iv), for the words “for the custody of” substitute “ giving parental responsibilities and parental rights in relation to ”.
- (3) In section 13 (jurisdiction ancillary to matrimonial proceedings)—
- (a) in subsection (2), for the words “under section 9(1) of the ^{M1}Matrimonial Proceedings (Children) Act 1958” substitute “ in those proceedings ”; and
 - (b) in subsection (4), for the words “under section 9(1) of the Matrimonial Proceedings (Children) Act 1958” substitute “ in matrimonial proceedings where the court has refused to grant the principal remedy sought in the proceedings ”.
- (4) In section 15 (duration, variation and recall of orders)—
- (a) in subsection (1)(b), for the words “for the custody of” substitute “ relating to the parental responsibilities or parental rights in relation to ”; and
 - (b) in subsection (4), for the words from the beginning to “above” substitute “ Where, by virtue of subsection (1) above, a child is to live with a different person ”.
- (5) In section 17 (orders for delivery of child)—
- (a) in subsection (3), for the words from “is the child” to “other party” substitute “ , although not a child of both parties to the marriage, is a child of the family of those parties ”; and
 - (b) at the end of the section add—
 - “(4) In subsection (3) above, “child of the family” means any child who has been treated by both parties as a child of their family, except a child who has been placed with those parties as foster parents by a local authority or a voluntary organisation.”.
- (6) For section 26 (recognition: special Scottish rule), substitute—

“26 Recognition: special Scottish rule.

An order relating to parental responsibilities or parental rights in relation to a child which is made outside the United Kingdom shall be recognised in

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Scotland if the order was made in the country where the child was habitually resident.”.

- (7) In section 33(3) (power to order disclosure of child’s whereabouts), for the words “for the custody of” substitute “relating to parental responsibilities or parental rights in relation to ”.
- (8) In section 35(3) (power to restrict removal of child from jurisdiction), for the words “whose custody” substitute “ whose care ”.
- (9) In section 42 (interpretation)—
- (a) in subsection (1), before the definition of “part of the United Kingdom” insert—
- ““parental responsibilities” and “parental rights” have the meanings respectively given by sections 1(3) and 2(4) of the Children (Scotland) Act 1995;”;
- and
- (b) in subsection (4)(b), for the words from “of one of the parties” to the end substitute “ who has been treated by both parties as a child of their family, except a child who has been placed with those parties as foster parents by a local authority or a voluntary organisation; ”.

Marginal Citations

M1 6 & 7 Eliz. c.40.

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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\(2\)](#)