



Children (Scotland) Act 1995

1995 CHAPTER 36

PART I

PARENTS, CHILDREN AND GUARDIANS

Parental responsibilities and parental rights

2 Parental rights

- (1) Subject to section 3(1)(b) and (3) of this Act, a parent, in order to enable him to fulfil his parental responsibilities in relation to his child, has the right—
 - (a) to have the child living with him or otherwise to regulate the child's residence;
 - (b) to control, direct or guide, in a manner appropriate to the stage of development of the child, the child's upbringing;
 - (c) if the child is not living with him, to maintain personal relations and direct contact with the child on a regular basis; and
 - (d) to act as the child's legal representative.
- (2) Subject to subsection (3) below, where two or more persons have a parental right as respects a child, each of them may exercise that right without the consent of the other or, as the case may be, of any of the others, unless any decree or deed conferring the right, or regulating its exercise, otherwise provides.
- (3) Without prejudice to any court order, no person shall be entitled to remove a child habitually resident in Scotland from, or to retain any such child outwith, the United Kingdom without the consent of a person described in subsection (6) below.
- (4) The rights mentioned in paragraphs (a) to (d) of subsection (1) above are in this Act referred to as "parental rights"; and a parent, or any person acting on his behalf, shall have title to sue, or to defend, in any proceedings as respects those rights.
- (5) The parental rights supersede any analogous rights enjoyed by a parent at common law; but this section is without prejudice to any other right so enjoyed by him or to

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any right enjoyed by him by, under or by virtue of any other provision of this Act or of any other enactment.

- (6) The description of a person referred to in subsection (3) above is a person (whether or not a parent of the child) who for the time being has and is exercising in relation to him a right mentioned in paragraph (a) or (c) of subsection (1) above; except that, where both the child's parents are persons so described, the consent required for his removal or retention shall be that of them both.
- (7) In this section, "child" means a person under the age of sixteen years.