



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 ^{M1}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 [^{F1}or in a civil partnership with] 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
 - [^{F2}(i)] married to [^{F3}or in a civil partnership with] the mother at the time of the child's conception or subsequently, [^{F4}or
 - (ii) where not married to [^{F5}or in a civil partnership with] the mother at that time or subsequently, the father is registered as the child's father under any of the enactments mentioned in subsection (1A).]
 - [^{F6}(c)] without prejudice to any arrangements which may be made under subsection (5) below, where a child has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008, that parent has parental responsibilities and parental rights in relation to the child;
 - (d) without prejudice to any arrangements which may be made under subsection (5) below and subject to any agreement which may be made under section 4A(1) of this Act, where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, that parent

Changes to legislation: Children (Scotland) Act 1995, Section 3 is up to date with all changes known to be in force on or before 15 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

has parental responsibilities and parental rights in relation to the child if she is registered as a parent of the child under any of the enactments mentioned in subsection (3A).]

[^{F7}(1A) Those enactments are—

- (a) section 18(1)(a), (b)(i) and (c) and (2)(b) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49);
- (b) sections 10(1)(a) to (e) and 10A(1)(a) to (e) of the Births and Deaths Registration Act 1953 (c. 20); and
- (c) article 14(3)(a) to (e) of the Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041).]

(2) For the purposes of subsection (1)(b) above, the father shall be regarded as having [^{F8}been—

- (a) married to the mother at any time when he was a party to a purported marriage with her which was—
 - (i) voidable; or
 - (ii) void but believed by them (whether by error of fact or law) in good faith at that time to be valid;
- (b) in a civil partnership with the mother at any time when he was a party to a purported civil partnership with her which was—
 - (i) voidable; or
 - (ii) void but believed by them (whether by error of fact or 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—

- (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.

[^{F9}(3A) Those enactments are—

- (a) paragraphs (a), (b) and (d) of section 18B(1) and section 18B(3)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965;
- (b) paragraphs (a), (b) and (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953;
- (c) sub-paragraphs (a), (b) and (c) of Article 14ZA(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.]

(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 [^{F10}compulsory supervision order or interim compulsory supervision order (as defined in sections 83 and 86 respectively of the Children's Hearings (Scotland) Act 2011 (asp 1)) that is in force in relation to the child.].

(5) Without prejudice to [^{F11}sections 4(1) and 4A(1)] of this Act, a person who has parental responsibilities or parental rights in relation to a child shall not abdicate those

Changes to legislation: Children (Scotland) Act 1995, Section 3 is up to date with all changes known to be in force on or before 15 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

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 ^{M2}Foster Children (Scotland) Act 1984, those arrangements are subject to the provisions of that Act.

Textual Amendments

- F1** Words in s. 3(1)(a) inserted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 4(2)(a)**; S.S.I. 2021/23, reg. 2, sch. (with reg. 3)
- F2** Words in s. 3(1)(b) renumbered as s. 3(1)(b)(i) (4.5.2006) by virtue of Family Law (Scotland) Act 2006 (asp 2), **ss. 23(2)(a)**, 46(2); S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F3** Words in s. 3(1)(b)(i) inserted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 4(2)(b)(i)**; S.S.I. 2021/23, reg. 2, sch. (with reg. 3)
- F4** S. 3(1)(b)(ii) inserted (4.5.2006) Family Law (Scotland) Act 2006 (asp 2), **ss. 23(2)(b)**, 46(2) (with s. 23(4)); S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F5** Words in s. 3(1)(b)(ii) inserted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 4(2)(b)(ii)**; S.S.I. 2021/23, reg. 2, sch. (with reg. 3)
- F6** S. 3(1)(c)(d) inserted (6.4.2009 for certain purposes, otherwise 1.9.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 50(2)**; S.I. 2009/479, **art. 6(1)(e)(2)** (as amended by S.I. 2009/2232, art. 3)
- F7** S. 3(1A) inserted (4.5.2006) by Family Law (Scotland) Act 2006 (asp 2), **ss. 23(3)**, 46(2); S.S.I. 2006/212, **art. 2** (subject to arts. 3-13)
- F8** Words in s. 3(2) substituted (1.6.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 4(2)(c)**; S.S.I. 2021/23, reg. 2, sch. (with reg. 3)
- F9** S. 3(3A) inserted (6.4.2009 for certain purposes, otherwise 1.9.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 50(3)**; S.I. 2009/479, **art. 6(1)(e)(2)** (as amended by S.I. 2009/2232, art. 3)
- F10** Words in s. 3(4) substituted (24.6.2013) by The Childrens Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 1 para. 9(2)**
- F11** Words in s. 3(5) substituted (6.4.2009 for certain purposes, otherwise 1.9.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 50(4)**; S.I. 2009/479, **art. 6(1)(e)(2)** (as amended by S.I. 2009/2232, art. 3)

Modifications etc. (not altering text)

- C1** S. 3(4) extended (*temp.* from 22.8.1996 to 1.4.1997) by S.I. 1996/2203, **art. 4**

Marginal Citations

- M1** 1986 c.9.
M2 1984 c. 56.

Changes to legislation:

Children (Scotland) Act 1995, Section 3 is up to date with all changes known to be in force on or before 15 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.

[View outstanding changes](#)

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\(2\)](#)