



Age of Legal Capacity (Scotland) Act 1991

1991 CHAPTER 50

3 Setting aside of transactions.

- (1) A person under the age of 21 years (“the applicant”) may make application to the court to set aside a transaction which he entered into while he was of or over the age of 16 years but under the age of 18 years and which is a prejudicial transaction.
- (2) In this section “prejudicial transaction” means a transaction which—
 - (a) an adult, exercising reasonable prudence, would not have entered into in the circumstances of the applicant at the time of entering into the transaction, and
 - (b) has caused or is likely to cause substantial prejudice to the applicant.
- (3) Subsection (1) above shall not apply to—
 - (a) the exercise of testamentary capacity;
 - (b) the exercise by testamentary writing of any power of appointment;
 - (c) the giving of consent to the making of an adoption order;
 - (d) the bringing or defending of, or the taking of any step in, civil proceedings;
 - (e) the giving of consent to any surgical, medical or dental procedure or treatment;
 - (f) a transaction in the course of the applicant’s trade, business or profession;
 - (g) a transaction into which any other party was induced to enter by virtue of any fraudulent misrepresentation by the applicant as to age or other material fact;
 - (h) a transaction ratified by the applicant after he attained the age of 18 years and in the knowledge that it could be the subject of an application to the court under this section to set it aside; or
 - (j) a transaction ratified by the court under section 4 below.
- (4) Where an application to set aside a transaction can be made or could have been made under this section by the person referred to in subsection (1) above, such application may instead be made by that person’s executor, trustee in bankruptcy, trustee acting under a trust deed for creditors or curator bonis at any time prior to the date on which that person attains or would have attained the age of 21 years.

Changes to legislation: *Age of Legal Capacity (Scotland) Act 1991, Section 3 is up to date with all changes known to be in force on or before 15 May 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*

- (5) An application under this section to set aside a transaction may be made—
- (a) by an action in the Court of Session or the sheriff court, or
 - (b) by an incidental application in other proceedings in such court,
- and the court may make an order setting aside the transaction and such further order, if any, as seems appropriate to the court in order to give effect to the rights of the parties.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3)(da) inserted by [2024 asp 2 Sch. 1 para. 17\(a\)](#)