



Children (Scotland) Act 1995

1995 CHAPTER 36

PART IV

GENERAL AND SUPPLEMENTAL

99 Registration of births by persons who are themselves children.

- (1) In paragraph (a) of section 14(1) of the ^{M1}Registration of Births, Deaths and Marriages (Scotland) Act 1965 (duty of father and mother to give information of particulars of birth), for the words “father or mother of the child” substitute “child’s father or mother (whether or not they have attained the age of sixteen years)”.
- (2) Where, at any time after the coming into force of the ^{M2}Age of Legal Capacity (Scotland) Act 1991 but before the coming into force of subsection (1) above, a person mentioned in the said paragraph (a) who had not at that time attained the age of sixteen years purported to fulfill the duty mentioned in the said section 14(1), he shall be presumed to have had legal capacity to fulfill that duty.
- (3) In section 18 of the said Act of 1965 (registration of birth of child born out of wedlock), after subsection (2) add—
 - “(3) A person under the age of sixteen years has legal capacity—
 - (a) to make a request, declaration or statutory declaration under subsection (1) or (2)(b) above if, in the opinion of the registrar; or
 - (b) to make an application under subsection (2)(c) above if, in the opinion of the sheriff,
that person understands the nature of the request or, as the case may be, of the declaration, statutory declaration or application; and without prejudice to the generality of this subsection a person twelve years of age or more shall be presumed to be of sufficient age and maturity to have such understanding.”.
- (4) Where, at any time after the coming into force of the ^{M3}Age of Legal Capacity (Scotland) Act 1991 but before the coming into force of subsection (3) above, a person who had not at that time attained the age of sixteen years made a request, declaration, statutory declaration or application mentioned in subsection (1) or (2) of the said

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section 18 in relation to a child in respect of whose birth an entry was consequently made under the said subsection (1) in a register of births, or as the case may be under the said subsection (2) in the Register of Corrections etc., the person shall be presumed to have had legal capacity to make the request, declaration, statutory declaration, or application in question.

Marginal Citations

- M1 1965 c.49.
M2 1991 c.50.
M3 1991 c.50.

100 Inquiries into matters affecting children.

After section 6A of the ^{M4}Social Work (Scotland) Act 1968 there shall be inserted—

“6B Local authority inquiries into matters affecting children.

- (1) Without prejudice to section 6A(1) of this Act, a local authority may cause an inquiry to be held into their functions under this Act, or any of the enactments mentioned in section 5(1B) of this Act, in so far as those functions relate to children.
- (2) The local authority may, before an inquiry under this section is commenced, direct that it be held in private; but where no such direction is given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.
- (3) Subsections (2) to (6) of section 210 of the ^{M5}Local Government (Scotland) Act 1973 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section, so however that, for the purposes of the application, any reference in those subsections to a Minister shall be construed as a reference to the local authority and any reference to an officer of his Department as a reference to an officer of that authority.
- (4) The expenses incurred by a local authority in relation to an inquiry under this section (including such reasonable sum as the authority may determine for the services of any of their officers engaged in the inquiry) shall, unless the authority are of the opinion that those expenses should be defrayed in whole or in part by them, be paid by such party to the inquiry as they may direct; and the authority may certify the amount of the expenses so incurred.
- (5) Any sum certified under subsection (4) above and to be defrayed in accordance with a direction under that subsection shall be a debt due by the party directed and shall be recoverable accordingly.
- (6) The local authority may make an award as to the expenses of the parties at the inquiry and as to the parties by whom such expenses shall be paid.”.

Marginal Citations

- M4 1968 c.49.

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M5 1973 c.45.

101 Panel for curators *ad litem*, reporting officers and safeguarders.

[^{F1}(1) The Scottish Ministers may by regulations make provision for the establishment of one or more of each of the following—

- (a) a panel of persons from which curators *ad litem* may be appointed [^{F2}by virtue of section 108 of the Adoption and Children (Scotland) Act 2007 (asp 4)]^{F3} ...;
- (b) a panel of persons from which reporting officers may be appointed under either of those sections; ^{F4} ...

^{F4}(c)]

(2) Regulations under subsection (1) above may provide, without prejudice to generality of that subsection—

- (a) for the appointment, qualifications and training of persons who may be appointed to [^{F5}those panels]; and
- (b) for the management and organisation of persons available for appointment from [^{F5}those panels].

[^{F6}(3) Regulations under subsection (1) above may provide—

- (a) for the defrayment by local authorities of expenses incurred by members of any panel established by virtue of that subsection; and
- (b) for the payment by local authorities of fees and allowances for such members.

^{F7}(4)]

Textual Amendments

- F1** S. 101(1) substituted (19.7.2001) by 2001 asp 8, **ss. 75(a)**, 81(2)
- F2** Words in s. 101(1)(a) substituted (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), **ss. 120(1)**, 121(2), **Sch. 2 para. 9(9)**; S.S.I. 2009/267, arts. 1(2), 2 (with arts. 3-21)
- F3** Words in s. 101(1)(a) repealed (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 6** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F4** S. 101(1)(c) and word repealed (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 6** (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F5** Words in s. 101(2)(a)(b) substituted (19.7.2001) by virtue of 2001 asp 8, **ss. 75(b)**, 81(2)
- F6** S. 101: subsections (3) and (4) substituted for subsection (3) (19.7.2001) by 2001 asp 8, **ss. 75(c)**, 81(2)
- F7** S. 101(4) repealed (24.6.2013) by Children's Hearings (Scotland) Act 2011 (asp 1), s. 206(2), **sch. 6** (with s. 186); S.S.I. 2013/195, arts. 2, 3

Commencement Information

- I1** S. 101 wholly in force at 22.1.2002; s. 101 not in force at Royal Assent see s. 105(1); s. 101 in force for certain purposes at 12.12.1996 by S.I. 1996/3201, **art. 3(1)** (with arts. 4-6 (as inserted (7.3.1997) by S.I. 1997/744, **art. 3**)); s. 101 wholly in force at 22.1.2002 by S.S.I. 2001/475, **art. 2**

[^{F8}101A Register for child welfare reporters

- (1) A court may only appoint as a child welfare reporter a person who is included on the register maintained in accordance with subsection (2).

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- (2) The Scottish Ministers must establish and maintain a register of persons who may be appointed to act as a child welfare reporter.
- (3) The Scottish Ministers may by regulations make provision for or in connection with—
 - (a) the requirements that a person must satisfy in order to be included, and remain, on the register (including requirements as to training and qualifications),
 - (b) the processes for including a person on, and removing a person from, the register (including appeal rights),
 - (c) the process for how, and by whom, a registered person is to be selected as the appointed child welfare reporter in a case,
 - (d) the remuneration by the Scottish Ministers of child welfare reporters, including expenses and outlays,
 - (e) the operation and management of the register.
- (4) Before making, revising or revoking regulations under subsection (3), the Scottish Ministers must consult persons with lived experience of—
 - (a) domestic abuse,
 - (b) court-ordered contact.
- (5) Regulations under subsection (3) are subject to the negative procedure.]

Textual Amendments

- F8** S. 101A inserted (25.10.2021 for specified purposes) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 9(2), 34(2)**; [S.S.I. 2021/339](#), **reg. 2(b)**

[^{F9}101B Register of curators ad litem for the purposes of section 11D

- (1) The Scottish Ministers must establish and maintain a register of persons who may be appointed to act as a curator ad litem in accordance with section 11D.
- (2) The Scottish Ministers may by regulations make provision for or in connection with—
 - (a) the requirements that a person must satisfy in order to be included, and remain, on the register (including requirements as to training and qualifications),
 - (b) the processes for including a person on, and removing a person from, the register (including appeal rights),
 - (c) the process for how, and by whom, a registered person is to be selected as the appointed curator ad litem in a case,
 - (d) the remuneration by the Scottish Ministers of curators ad litem appointed in accordance with section 11D, including expenses and outlays (such as counsel's fees),
 - (e) the operation and management of the register.
- (3) Regulations under subsection (2) are subject to the negative procedure.]

Textual Amendments

- F9** S. 101B inserted (25.10.2021 for specified purposes) by [Children \(Scotland\) Act 2020 \(asp 16\)](#), **ss. 17(3), 34(2)**; [S.S.I. 2021/339](#), **reg. 2(d)**

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[^{F10}101C Contact services: regulation

- (1) The Scottish Ministers may by regulations make provision about the regulation of a contact service provided in relation to the requirements of a contact order.
- (2) Regulations under subsection (1) may in particular—
 - (a) make provision for the minimum standards to be met by contact service providers, including qualifications and training of staff,
 - (b) make provision for the registration of contact service providers that meet those minimum standards and, for those that do not, the refusal of registration or removal from the register (including appeal rights),
 - (c) make provision for minimum standards to be met by contact centres (including standards in respect of accommodation),
 - (d) make provision for the registration of contact centres that meet those minimum standards and, for those that do not, the refusal of registration or removal from the register (including appeal rights),
 - (e) make provision about the conditions on which a regulated contact service provider may, in accordance with the regulations, provide a contact service at a place that is not registered as a contact centre (including conditions about the minimum standards for accommodation at a place if it is to be used for that purpose),
 - (f) appoint a person or persons for the purposes of administering the registration of contact service providers and contact centres,
 - (g) confer functions on the appointed person or persons,
 - (h) determine the fees payable in connection with the registration of a contact service provider or contact centre.
- (3) Functions conferred by virtue of subsection (2)(g) may include—
 - (a) inspecting contact centres, regulated contact service providers and contact service providers applying for registration,
 - (b) having risk assessments of contact centres undertaken by persons trained in undertaking such assessments,
 - (c) issuing reports on the inspection of contact centres, regulated contact service providers and contact service providers applying for registration,
 - (d) issuing reports on any failure, or possible failure, by a contact service provider to comply with the provider's duties under the Equality Act 2010, and in particular any duty to make reasonable adjustments to premises in order to facilitate their use by disabled people,
 - (e) refusing to register contact service providers and contact centres, and removing from a register regulated contact service providers and contact centres, that do not meet the minimum standards.
- (4) Regulations under subsection (1)—
 - (a) may make such modifications to other enactments as the Scottish Ministers consider appropriate for the purposes of, or in connection with, or for giving full effect to the regulations,
 - (b) are subject to the affirmative procedure.
- (5) In this section—

“contact centre” means a place that is used for the provision of a contact service,

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“contact service” means the facilitation of contact between a child and a person with whom the child is not, or will not be, living (including the handover of the child to that person),

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,

“regulated contact service” means a contact service that—

- (a) is provided by a regulated contact service provider, and
- (b) is either—
 - (i) provided at a place that is registered as a contact centre in accordance with regulations under subsection (1), or
 - (ii) provided in circumstances in which the provider may, in accordance with regulations under subsection (1), provide the service at a place that is not registered as a contact centre,

“regulated contact service provider” means an organisation that is registered in accordance with regulations under subsection (1) to provide contact services.]

Textual Amendments

F10 S. 101C inserted (25.10.2021) by Children (Scotland) Act 2020 (asp 16), ss. 10(3), 34(2); S.S.I. 2021/339, reg. 2(c)

102 Removal of duty to report on operation of Children Act 1975.

Section 105 of the ^{M6}Children Act 1975 (which among other things provides that every five years there shall be laid before Parliament by the Secretary of State a report on the operation of such sections of that Act as are for the time being in force) shall cease to have effect.

Marginal Citations

M6 1975 c.42.

103 Interpretation, rules, regulations and Parliamentary control.

- (1) Any reference in this Act, or in any enactment amended by this Act, to a person having, or to there being vested in him, parental responsibilities or parental rights shall, unless the context otherwise requires, be construed as a reference to his having, or to there being so vested, any of those rights or as the case may be responsibilities.
- (2) Any reference in this Act to something being “prescribed” is, unless the context otherwise requires, a reference to its being prescribed by regulations; and any power conferred by this Act on the Secretary of State or the Lord Advocate to make rules or regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Rules or regulations made under this Act—
 - (a) may make different provision for different cases or classes of case; and
 - (b) may exclude certain cases or classes of case.

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104 Financial provision.

There shall be paid out of money provided by Parliament—

- (a) any expenses of the Secretary of State incurred in consequence of the provisions of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

105 Extent, short title, minor and consequential amendments, repeals and commencement.

- (1) This Act, which subject to subsections (8) to (10) below extends to Scotland only—
 - (a) may be cited as the Children (Scotland) Act 1995; and
 - (b) except for subsections (1), (2) and (6) to (10) of this section, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint;
and different days may be appointed under paragraph (b) above for different purposes.
- (2) An order under subsection (1)(b) above may contain such transitional and consequential provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions brought into force.
- (3) The transitional provisions and savings contained in Schedule 3 to this Act shall have effect but are without prejudice to sections 16 and 17 of the^{M7} Interpretation Act 1978 (effect of repeals).
- (4) Schedule 4 to this Act, which contains minor amendments and amendments consequential upon the provisions of this Act, shall have effect.
- (5) The enactments mentioned in Schedule 5 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (6) The Secretary of State may by order made by statutory instrument make such further amendments or repeals, in such enactments as may be specified in the order, as appear to him to be necessary or expedient in consequence of any provision of this Act.
- (7) A statutory instrument containing an order under subsection (6) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Sections 18, 26(2), 33, 44,^{F11F12}..., 93 and 104 of this Act and this section extend to England and Wales, and those sections and this section^{F12}... also extend to Northern Ireland; but—
 - (a) subsection (4) of this section so extends—
 - (i) to England and Wales, only in so far as it relates to paragraphs 8, 10, 19, 31, 37, 41(1), (2) and (7) to (9), 48 to 52, 54 and 55 of Schedule 4; and
 - (ii) to Northern Ireland, only in so far as it relates to paragraphs 31, 37, 41(1), (2) and (7) to (9), 54, 55 and 58 of that Schedule; and
 - (b) subsection (5) of this section so extends—
 - (i) to England and Wales, only in so far as it relates to the entries in Schedule 5 in respect of Part V of the^{M8} Social Work (Scotland) Act 1968, the^{M9} Maintenance Orders (Reciprocal Enforcement) Act 1972, section 35(4)(c) of the^{M10} Family Law Act 1986, the^{M11} Children Act

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1989, the ^{M12}Child Support Act 1991 and the ^{M13}Education Act 1993;
and

(ii) to Northern Ireland, only in so far as it relates to the entries in that Schedule in respect of Part V of the Social Work (Scotland) Act 1968, the Maintenance Orders (Reciprocal Enforcement) Act 1972 and section 35(4)(c) of the Family Law Act 1986.

(9) This section, so far as it relates to the repeal of Part V of the Social Work (Scotland) 1968, also extends to the Channel Islands.

F13F14(10)

Subordinate Legislation Made

- P1** S. 105(1)(b) power partly exercised (24.10.1995): 1.11.1995 appointed for specified provisions by [S.I. 1995/2787, art. 3, Sch.](#)
S. 105(1)(b) power partly exercised (22.8.1996): different dates appointed for specified provisions by [S.I. 1996/2203, art. 3, Sch.](#) (with [arts. 4-7](#)) (as amended (18.10.1996) by [S.I. 1996/2708, art. 2](#) and (19.1.1997) by [S.I. 1997/137, art. 2](#))
S. 105(1)(b) power partly exercised (11.12.1996): different dates appointed for specified provisions by [S.I. 1996/3201, art. 3\(1\)-\(7\)](#) (with [arts. 4-6](#)) (as amended (11.12.1996) by [S.I. 1997/744, arts. 2, 3](#))
S. 105(1) power partly exercised (20.12.2001): 22.1.2002 appointed for specified provisions by [S.S.I. 2001/475, art. 2](#)
S. 105(1) power partly exercised (21.1.2002): 22.1.2002 appointed for specified provisions and certain purposes by [S.S.I. 2002/12 art. 2](#)

Textual Amendments

- F11** Words in s. 105(8) repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\), s. 206\(2\), sch. 6](#) (with [s. 186](#)) (as amended (30.9.2015) by virtue of [Children and Young People \(Scotland\) Act 2014 \(asp 8\), s. 102\(3\), Sch. 5 para. 12\(10\)\(b\); S.S.I. 2015/317, art. 2, Sch.](#)); [S.S.I. 2013/195, arts. 2, 3\(e\)\(iii\)](#)
- F12** Words in s. 105(8) repealed (24.6.2013) by [The Children’s Hearings \(Scotland\) Act 2011 \(Consequential and Transitional Provisions and Savings\) Order 2013 \(S.I. 2013/1465\), art. 1\(2\), Sch. 2 Pt. 2](#)
- F13** S. 105(10) repealed (S.) (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\), s. 206\(2\), sch. 6](#) (with [s. 186](#)); [S.S.I. 2013/195, arts. 2, 3](#)
- F14** S. 105(10) repealed (24.6.2013) by [The Children’s Hearings \(Scotland\) Act 2011 \(Consequential and Transitional Provisions and Savings\) Order 2013 \(S.I. 2013/1465\), art. 1\(2\), Sch. 2 Pt. 2](#)

Commencement Information

- I2** S. 105 wholly in force at 1.4.1997: s. 105(1)(2)(6)-(10) in force at Royal Assent see s. 105(1); s. 105(4)(5) in force for certain purposes at 1.11.1995 by [S.I. 1995/2787, art. 3, Sch.](#); s. 105(3)-(5) in force for certain purposes at 1.11.1996 by [S.I. 1996/2203, art. 3\(3\), Sch.](#) (with [arts. 4-7](#)) (as amended (19.1.1997) by [S.I. 1997/137, art. 2](#)); s. 105(4) in force for certain purposes at 12.12.1996 by [S.I. 1996/3201, art. 3\(6\)](#) (with [arts. 4-6](#) (as inserted (7.3.1997) by [S.I. 1997/744, art. 3](#))); s. 105 in force at 1.4.1997 insofar as not already in force by [S.I. 1996/3201, art. 3\(7\)](#) (with [arts. 4-6](#)) (as amended (7.3.1997) by [S.I. 1997/744, arts. 2, 3](#))

Marginal Citations

- M7** 1978 c.30.
M8 1968 c.49.
M9 1972 c.18.
M10 1986 c.55.

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M11 [1989 c.41.](#)

M12 [1991 c.48.](#)

M13 [1993 c.35.](#)

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