schedule contains provisions that are not valid for this point in time. **Changes to legislation:** Children (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 13 June 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)

VALID FROM 01/11/1995

SCHEDULES

SCHEDULE 4

Section 105(4).

MINOR AND CONSEQUENTIAL AMENDMENTS

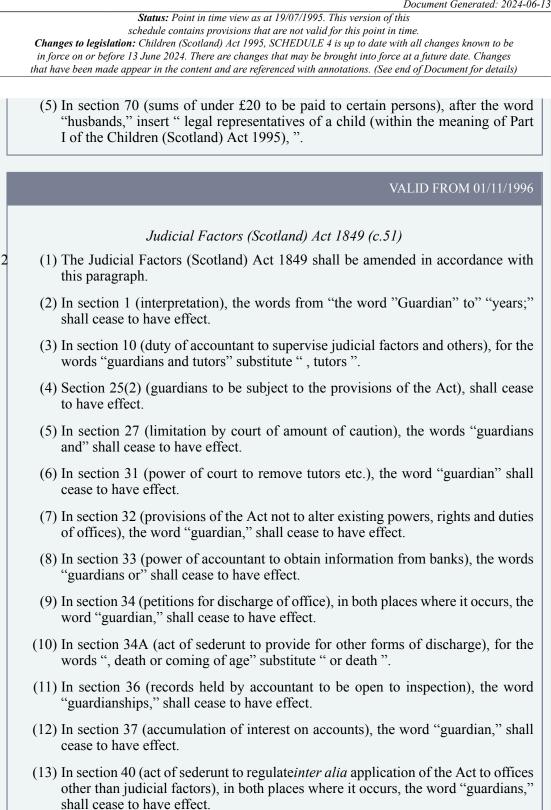
VALID FROM 01/11/1996

Lands Clauses Consolidation (Scotland) Act 1845 (c.19)

(1) The Lands Clauses Consolidation (Scotland) Act 1845 shall be amended in accordance with this paragraph.

(2) In section 7 (which makes provision for certain persons to have full power to sell and convey land)—

- (a) after the word "husbands," insert " persons who, within the meaning of Part I of the Children (Scotland) Act 1995, are entitled to act as the legal representatives of a child, ";
- (b) after the words "guardians for" the words "persons under a legal disability by reason of nonage" shall cease to have effect; and
- (c) after the word "whether", the words "persons under legal disability by reason of nonage" shall cease to have effect;
- (d) after the word "such" where it appears for the sixth time, insert " legal representatives, "; and
- (e) after the word "such" where it appears for the seventh time, the words "persons under legal disability by reason of nonage" shall cease to have effect.
- (3) In section 67 (certain payments to persons under a disability to be deposited with the Bank)—
 - (a) after the word "husband," insert " a person who, within the meaning of Part I of the Children (Scotland) Act 1995, is entitled to act as a legal representative of a child "; and
 - (b) the words "persons under legal disability by reason of nonage" shall cease to have effect.
- (4) In section 69 (nomination of trustees to whom certain payments of under £200 may be paid)—
 - (a) the words "legal disability by reason of nonage" shall cease to have effect; and
 - (b) after the word "husbands," insert "legal representatives of a child (within the meaning of Part I of the Children (Scotland) Act 1995), ".



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VALID FROM 01/11/1996

Improvement of Land Act 1864 (c.114)

In section 24 of the Improvement of Land Act 1864 (representation of persons under disability in certain applications etc.), for the words from the beginning to "feoffee" where it last occurs substitute " Any person entitled to act as the legal representative of a person under legal disability by reason of non-age or mental incapacity shall be entitled to act on behalf of that person for the purposes of this Act; and any trustee, judicial factor, executor or administrator shall, subject to any other enactment, have the same rights and powers for the purposes of this Act as if the property vested in or administered by him had been vested in him in his own right; but no such legal representative ".

VALID FROM 01/11/1996

Judicial Factors (Scotland) Act 1880 (c.4)

In section 3 of the Judicial Factors (Scotland) Act 1880 (interpretation), in the definition of "judicial factor"—

- (a) for the word "absentis," substitute " absentis and "; and
- (b) the words from "and" to "required," shall cease to have effect.

VALID FROM 01/11/1996

Heritable Securities (Scotland) Act 1894 (c.44)

In section 13 of the Heritable Securities (Scotland) Act 1894 (persons to have powers conferred by Act where person subject to legal disability), for the words "and trustees" substitute "and—

- (a) any person entitled, within the meaning of Part I of the Children (Scotland) Act 1995, to act as the legal representative of a child; and
- (b) trustees".

VALID FROM 01/11/1996

Trusts (Scotland) Act 1921 (c.58)

In section 2 of the Trusts (Scotland) Act 1921 (interpretation)—

- (a) in the definition of "trustee" the words "(including a father or mother acting as guardian of a child under the age of 16 years)" shall cease to have effect; and
- (b) after the definition of "trustee" insert—

Status: Point in time view as at 19/07/1995. This version of this schedule contains provisions that are not valid for this point in time. Changes to legislation: Children (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 13 June 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)

> ""curator" and "tutor" shall have respectively the meanings assigned to these expressions by section 1 of the Judicial Factors Act 1849;

> "guardian" shall not include any person who, within the meaning of Part I of the Children (Scotland) Act 1995, is entitled to act as the legal representative of a child;".

> > VALID FROM 01/11/1996

Children and Young Persons (Scotland) Act 1937 (c. 37)

- (1) The Children and Young Persons (Scotland) Act 1937 shall be amended in accordance with this paragraph.
- (2) In section 12 (cruelty to persons under sixteen)—
 - (a) in subsection (1), for the words from "has the custody" to "that age" substitute " who has parental responsibilities in relation to a child or to a young person under that age or has charge or care of a child or such a young person, ";
 - (b) in subsection (2)(a), after the words "young person" insert " or the legal guardian of a child or young person"; and
 - (c) in subsection (4), for the words from "of whom" to "or care" substitute " and he had parental responsibilities in relation to, or charge or care of, that child or young person".
- (3) In section 15 (causing or allowing persons under sixteen to be used for begging), in each of subsections (1) and (2), for the words "the custody" substitute " parental responsibilities in relation to, or having ".
- (4) In section 22 (exposing children under seven to risk of burning), for the words from "having the custody" to "seven years" substitute " and who has parental responsibilities in relation to a child under the age of seven years or charge or care of such a child ".
- (5) In section 27 (interpretation)—
 - (a) the first paragraph shall cease to have effect; and
 - (b) in the second paragraph, for the words "the custody of" substitute " parental responsibilities in relation to".
- (6) In section 110(1) (interpretation)—
 - (a) after the definition of "local authority" insert—

""parental responsibilities" has the same meaning as in section 1(3) of the Children (Scotland) Act 1995 and includes the responsibilities which a father would have as a parent but for the operation of section 3(1)(b) of that Act;";

(b) for the definition of "Place of Safety", substitute

""place of safety" has the meaning give by section 93(1) of the Children (Scotland) Act 1995;"; and

(c) for the definition of "Residential establishment" substitute

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"residential establishment" has the meaning given by the said section 93(1);".

Commencement Information

Sch. 4 para. 7 wholly in force at 1.4.1997; Sch. 4 para. 7 not in force at Royal Assent see s. 105(1);
 Sch. 2 para. 7(1)(5)(6)(a) in force 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); Sch. 4 para. 7 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)

VALID FROM 01/11/1996

Mines and Quarries Act 1954 (c. 70)

In section 182(1) of the Mines and Quarries Act 1954 (interpretation), in the definition of "parent", for the words from "means" to "and includes" substitute " means a parent of a young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the ^{M1}Children Act 1989) or who has parental responsibilities in relation to him (within the meaning of section 1(3) of the Children (Scotland) Act 1995), and includes".

Marginal Citations M1 1989 c.41.

10

VALID FROM 01/11/1996

Matrimonial Proceedings (Children) Act 1958 (c. 40)

In section 11(1) of the Matrimonial Proceedings (Children) Act 1958 (reports as to arrangements for future care and upbringing of children), for the words from the beginning to "the court may" substitute " Where the court is considering any question relating to the care and upbringing of a child, it may "

VALID FROM 01/11/1996

Factories Act 1961 (c. 34)

In section 176(1) of the Factories Act 1961 (interpretation)— (a) for the definition of "child" substitute—

Status: Point in time view as at 19/07/1995. This version of this schedule contains provisions that are not valid for this point in time. Changes to legislation: Children (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 13 June 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) ""child" means any person who is not overcompulsory school age (construed in accordance with section 277 of the ^{M2}Education Act 1993); or school age (construed in accordance with section 31 (b) of the ^{M3}Education (Scotland) Act 1980);" in the definition of "parent", for the words from "means" to "and (b)includes" substitute " means a parent of a child or young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children Act 1989) or who has parental responsibilities in relation to him (within the meaning of section 1(3) of the Children (Scotland) Act 1995), and includes ". **Commencement Information** Sch. 4 para. 10 wholly in force at 1.4.1997; Sch. 2 para. 10 not in force at Royal Assent see 12 s.105(1); Sch. 2 para. 10(b) in force 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); Sch. 4 para. 10 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

M2 1993 c.35.

M3 1980 c.44.

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VALID FROM 01/11/1996

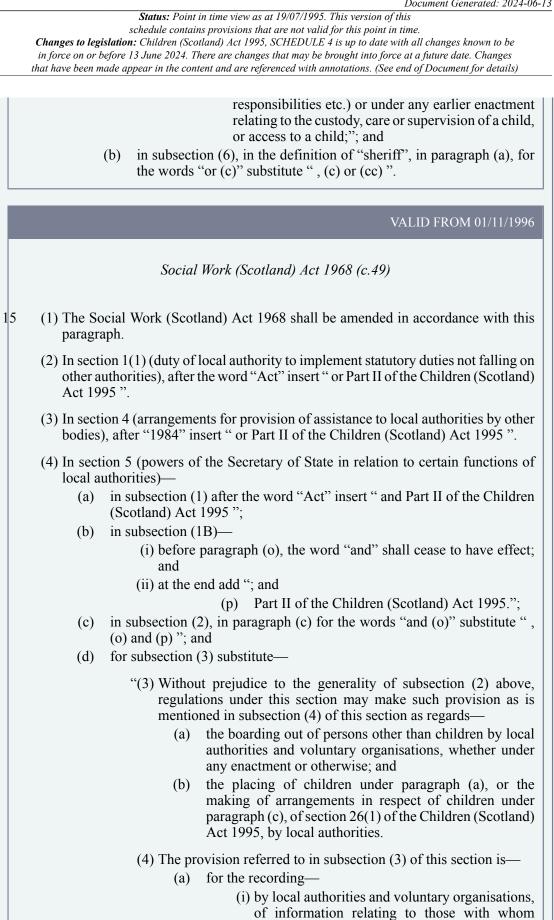
Education (Scotland) Act 1962 (c. 47)

In section 145(33) of the Education (Scotland) Act 1962 (interpretation), for the words "the actual custody of" substitute " parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to, or has the care of, ".

Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49)

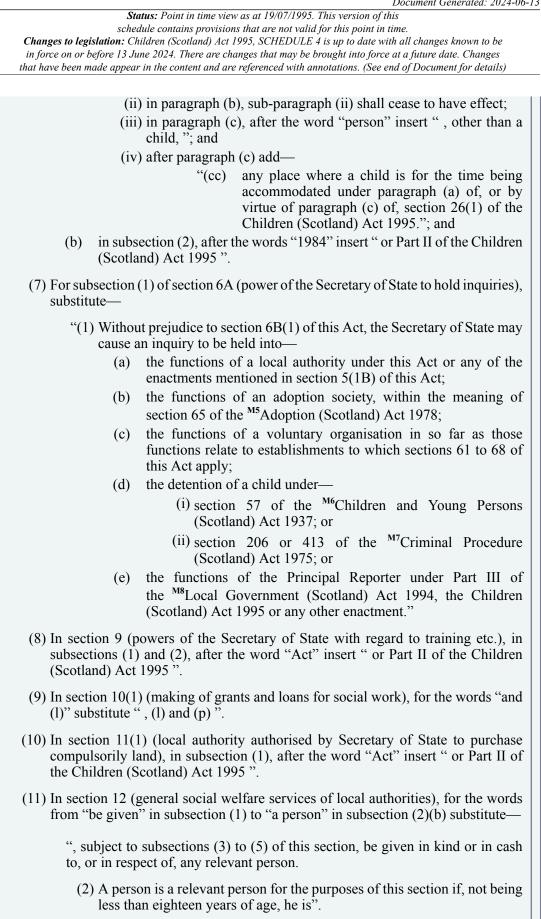
- 12 (1) The Registration of Births, Deaths and Marriages (Scotland) Act 1965 shall be amended in accordance with this paragraph.
 - (2) In section 20(3)(a) (re-registration of birth of person under sixteen), for subparagraphs (i) and (ii) substitute ", by any person (whether or not he has himself attained the age of sixteen years) having parental responsibilities in relation to that person; ".
 - (3) In section 43 (recording of baptismal name or change of name or surname)—
 - (a) in subsection (3), the words from "In this" to the end shall cease to have effect;
 - (b) in subsections (6)(a) and (7), for the words "the parent or guardian" substitute " the qualified applicant ";

(c) after subsection (9) insert—			
 "(9A) In this section "qualified applicant" means— (a) where only one parent has parental responsibilities in relation to the child, that parent; (b) where both parents have such responsibilities in relation to the child, both parents; and (c) where neither parent has such responsibilities, any other person who has such responsibilities. 			
(9B) A person may be a qualified applicant for the purposes of this section whether or not he has attained the age of sixteen years"; and(d) subsection (10) shall cease to have effect.			
(4) In section 53(3)(c) (offence of failure by parent to give information concerning birth), after the word "fails" insert " without reasonable excuse ".			
(5) In section 56(1) (interpretation), after the definition of "parentage" insert—			
"parental responsibilities" has the meaning given in section 1(3) of the Children (Scotland) Act 1995;"			
 Where, at any time after the coming into force of the ^{M4}Age of Legal Capacity (Scotland) Act 1991 but before the coming into force of— sub-paragraph (2) of paragraph 12 of this Schedule, a person's mother or father, who had not at that time attained the age of sixteen years purported to apply under section 20(3)(a) of that Act to re-register the person's birth, the mother, or as the case may be the father, shall be presumed to have had legal capacity to make the application; or sub-paragraph (3)(c) of that paragraph, a person who had not at that time attained the age of sixteen years purported to make an application under any provision of section 43 of that Act ("making an application" including for the purposes of this sub-paragraph, without prejudice to the generality of that expression, signing and delivering a certificate in accordance with subsection (3) of that section) the person shall be presumed to have had legal capacity to make the application. 			
Marginal Citations M4 1991 c.50.			
VALID FROM 01/11/1996			
 Law Reform (Miscellaneous Provisions)(Scotland) Act 1966 (c.19) In section 8 of the Law Reform (Miscellaneous Provisions)(Scotland) Act 1966 (variation and recall of certain orders in respect of maintenance, custody etc.)— (a) in subsection (1), after paragraph (c) insert— 			
"(cc) an order under section 11 of the Children (Scotland) Act 1995 (orders in respect of parental			

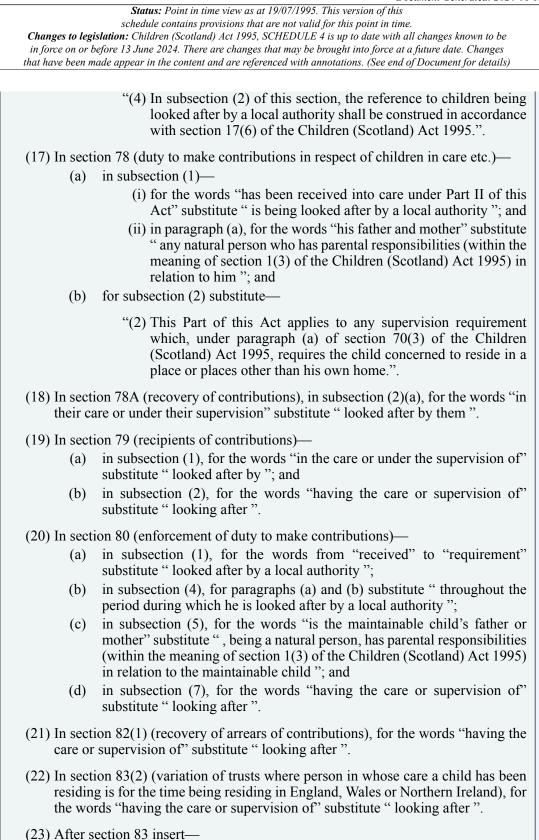


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persons are so boarded out, or who are willing to have persons so boarded out with them; and (ii) by local authorities, of information relating to those with whom children are so placed or with whom such arrangements are made or who are willing to have children so placed with them or to enter into such arrangements; (b) for securing that-(i) persons are not so boarded out in any household unless it is for the time being approved by such local authority or voluntary organisation as may be prescribed by the regulations; and (ii) children are not so placed or, in accordance with such arrangements, provided with accommodation, in any household unless it is for the time being approved by the local authority placing the child or as the case may be making the arrangements; (c) for securing that, where possible, the person with whom a child is so placed or with whom such arrangements are made is either of the same religious persuasion as the child or gives an undertaking that the child shall be brought up in that persuasion; (d) for securing— (i) that a person who is, and the place in which he is, so boarded out by a local authority or voluntary organisation is supervised and inspected by that authority or organisation; and (ii) that a child who is, and the place in which he is, so placed or, in accordance with such arrangements, provided with accommodation, by a local authority is supervised and inspected by that authority, and that he shall be removed from the place in question if his welfare appears to require it. (5) In subsections (3) and (4) of this section, "child" has the same meaning as in Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995." (5) In section 5B (requirement to establish complaints procedures) in subsection (4), in paragraph (b), for the words "rights in respect of" (a) substitute " responsibilities and parental rights (within the meaning of section 1(3) and section 2(4) respectively of the Children (Scotland) Act 1995) in relation to "; and in subsection (5), at the end of the definition of "child", the words from (b) " and " to the end of the subsection shall cease to have effect. (6) In section 6 (power to enter certain establishments to conduct examination) in subsection (1)— (a) (i) in paragraph (a), after the word "1984" insert " or Part II of the Children (Scotland) Act 1995 ";



- (a) in subsection (1), after the word "from," insert " or was a child being looked after by, "; and
- (b) after subsection (2) add—
 - "(3) In subsection (1) of this section, the reference to a child being looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.".
- (13) In section 29 (power of local authority to defray expenses of parents etc. visiting persons accommodated by a local authority or attending certain funerals)—
 - (a) in subsection (1)—
 - (i) for the words from "a person" to "respect" substitute—
 - (a) a person, other than a child, in the care of the authority or receiving assistance from the authority; or
 - (b) a child who is being looked after by the authority,
 - in respect ";
 - (ii) after the words "visiting the person" insert " or child "; and
 - (iii) for the words "the person", where they occur for the second time, substitute " him ";
 - (b) in subsection (2), for the words from "a person" to "for" substitute—
 - (a) a person, other than a child, who had been in the care of the authority or receiving assistance from the authority; or
 - (b) a child who had been looked after by the authority,
 - for "; and
 - (c) after subsection (2), add—
 - "(3) In subsections (1) and (2) above, references to a child looked after by a local authority shall be construed as is mentioned in subsection (3) of section 28 of this Act.".
- (14) Part III (children in need of compulsory measures of care) shall cease to have effect, with the exception of subsections (1) and (3) of section 31 and the amendments provided for by the said subsection (3) and contained in Schedule 2 to that Act.
- (15) In section 59(1) (provision and maintenance of residential and other establishments) after the word "Act,", where it occurs for the second time, insert "or under Part II of the Children (Scotland) Act 1995,"
- (16) In section 68 (visiting of persons in establishments)—
 - (a) in subsection (2), for the words "in the care or under the supervision of the authority under Part II or Part III of this Act" substitute "being looked after by the authority"; and
 - (b) after subsection (3) add—



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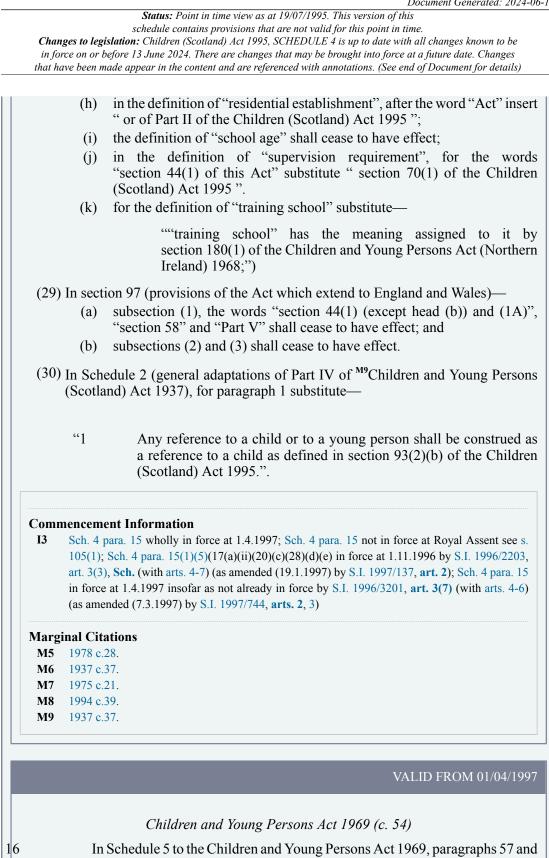
****83A** References in this Part of this Act to child being looked after.

In this Part of this Act, references to a child being looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.".

- (24) In section 86 (adjustments between local authorities as regards certain expenditure)—
 - (a) in subsection (1)—
 - (i) in paragraph (a), after the word "Act" insert ", or under section 25 of the Children (Scotland) Act 1995, "; and
 - (ii) in paragraph (b), for the words from "of services" to "Act", where it occurs for the second time, substitute ", or under or by virtue of Part II of the said Act of 1995, of services and facilities for a person ordinarily so resident (including, in the case of a child, any expenses incurred after he has ceased to be a child, and, in the event of another local authority taking over, under section 25(4) of that Act, the provision of accommodation for him, "); and
 - (b) in subsection (3), after the words "1989" insert " or provided with accommodation under paragraph (a) of, or by virtue of paragraph (c) of, section 26(1) of the Children (Scotland) Act 1995".
- (25) In section 87 (charges which may be made for services and accommodation), in each of subsections (1) and (1A), after the words "1984" there shall be inserted " or under or by virtue of Part II of the Children (Scotland) Act 1995".
- (26) Section 88 (duty of parents to notify change of address) shall cease to have effect.
- (27) In section 90(1) (power to make regulations, orders or rules), the words "(other than orders under section 52 and 58 and Part V of this Act)") shall cease to have effect.
- (28) In section 94(1) (interpretation)—
 - (a) the definition of "children's panel" and of "children's hearing" shall cease to have effect;
 - (b) the definition of "compulsory measures of care" shall cease to have effect;
 - (c) in the definition of "establishment", after the word "Act," insert " or of Part II of the Children (Scotland) Act 1995, ";
 - (d) the definition of "guardian" shall cease to have effect;
 - (e) for the definition of "parent" substitute—

""parent" means either parent or both parents, except that where the child was born out of wedlock and the parents have not subsequently married each other it means the natural mother but not the natural father;";

- (f) the definition of "place of safety" shall cease to have effect;
- (g) in the definition of "prescribed"—
 - (i) in paragraph (a), for the words "sections 3 and 36" substitute " section 3 "; and
 - (ii) paragraph (b) shall cease to have effect;

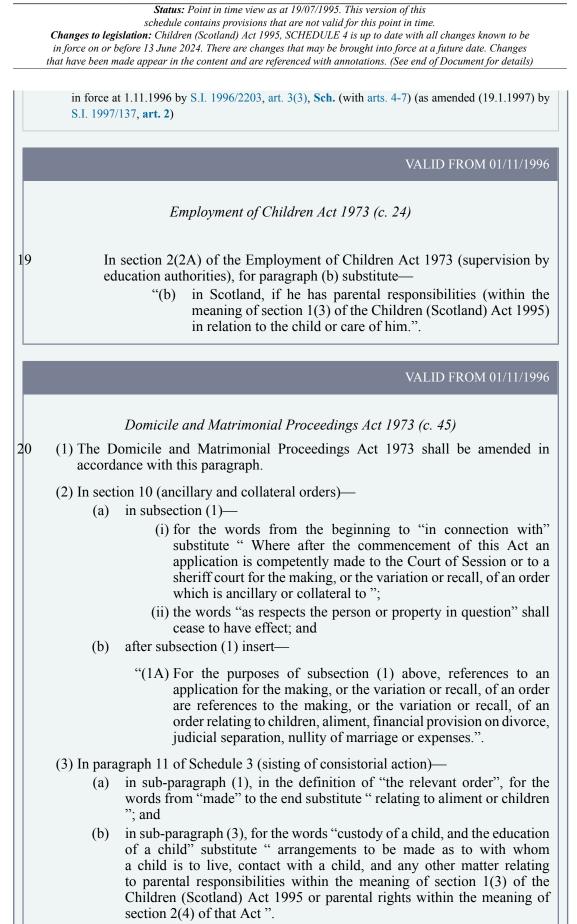


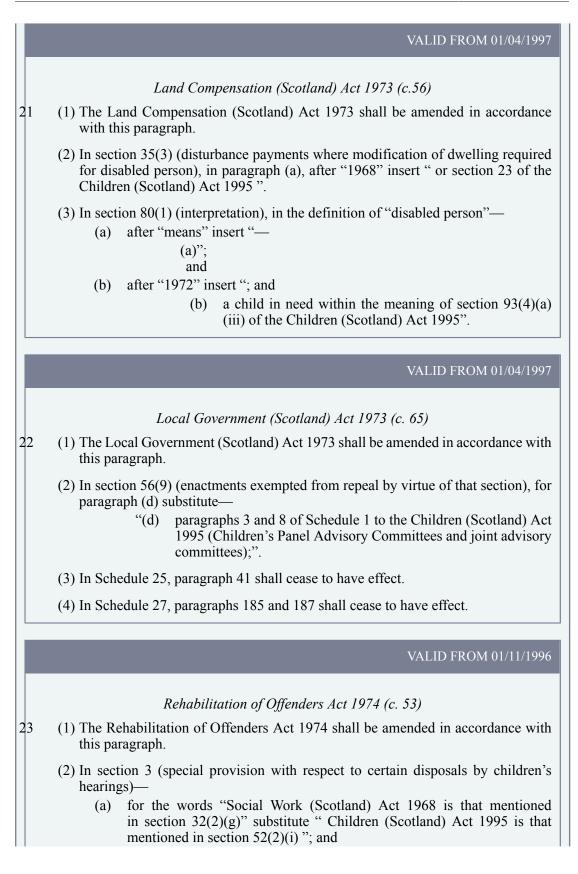
In Schedule 5 to the Children and Young Persons Act 1969, paragraphs 57 and 65(1) (which relate to the provision of accommodation for children outside Scotland) shall cease to have effect.

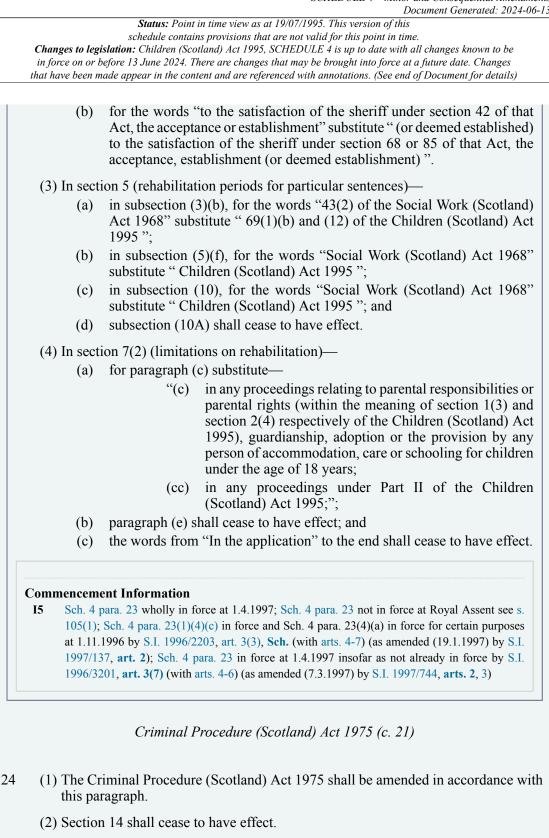
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	VALID FROM 01/04/1997
	Chronically Sick and Disabled Persons Act 1970 (c. 44)
7	(1) The Chronically Sick and Disabled Persons Act 1970 shall be amended in accordance with this paragraph.
	 (2) In section 18(2) (information as to accommodation of younger with older persons), for the words "having functions under the Social Work (Scotland) Act 1968" substitute ", in respect of their functions both under the Social Work (Scotland) Act 1968 and under the Children (Scotland) Act 1995, ".
	(3) In section 29(2) (modifications of provisions of the Act in their application to Scotland)—
	 (a) in paragraph (a), at the end add " except that in the case of persons under eighteen years of age such references shall instead be construed as references to duties to disabled children (within the meaning of Chapter 1 of Part II of the Children (Scotland) Act 1995) "; and (b) for paragraph (b) substitute—
	 (b) any references to services provided under arrangements made by a local authority under the said section 29 shall be construed as references to services for— (i) such chronically sick or disabled, or such mentally disordered, persons provided by virtue of the said section 12; or
	(ii) such disabled children provided under section 23(1) of the said Act of 1995,
	by a local authority;".
0	Sheriff Courts (Scotland) Act 1971 (c. 58)
8	(1) The Sheriff Courts (Scotland) Act 1971 shall be amended in accordance with this paragraph.
	(2) In section 32(1) (power of Court of Session to regulate civil procedure in the sherift court), after paragraph (i) insert—
	"(j) permitting a person who is not an advocate or solicitor and is not represented by an advocate or solicitor to transmit, whether orally or in writing, the views of a child to the sheriff for the purposes of any enactment which makes provision (however expressed) for the sheriff to have regard to those views.".
	(3) In section 37(2A) (remit to Court of Session), for the words "the custody" substitute "parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to a child or the "

Sch. 4 para. 18 wholly in force at 1.11.1996; Sch. 4 para. 18 not in force at Royal Assent see s. 105(1); Sch. 4 para. 18(1)(2) in force at 1.11.1995 by S.I. 1995/2787, art. 3, **Sch.**; Sch. 4 para. 18(3)

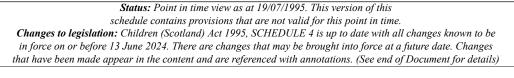






- (3) In section 23 (which, as amended by the ^{M10}Criminal Justice (Scotland) Act 1995, provides for remand of persons under twenty one in secure accommodation)—
 - (a) in sub-paragraph (i) of paragraph (a) of subsection (1), for the words "the ^{M11}Social Work (Scotland) Act 1968" substitute " Part II of the Children (Scotland) Act 1995 "; and

- (b) in paragraph (a) of subsection (4), for the words "the Social Work (Scotland) Act 1968" substitute "Part II of the Children (Scotland) Act 1995 ".
- (4) In section 37 (power to order parent to give security for child's good behaviour) after subsection (3) add—
 - "(4) In this section "parent" means either of the child's parents, if that parent has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to him.".
- (5) In section 39 (attendance at court of parent of child charged with an offence: solemn procedure)—
 - (a) for subsection (4) substitute—
 - "(4) The parent or guardian whose attendance shall be required under this section shall be—
 - (a) any parent who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to the child; or
 - (b) the guardian having actual possession and control of him."; and
 - (b) in subsection (5), for the word "custody" substitute " care ".
- (6) In section 168 (power of court to refer child to reporter where accused convicted of certain offences: solemn proceedings)—
 - (a) in paragraph (c), the word "female" shall cease to have effect;
 - (b) in paragraph (ii), after the word "above" insert " or the person in respect of whom the offence so mentioned was committed "; and
 - (c) for the words "Part III of the ^{M12}Social Work (Scotland) Act 1968" substitute " Chapter 3 of Part II of the Children (Scotland) Act 1995".
- (7) In section 171(2) (regard to be had to certain provisions in presumption of age of child: solemn proceedings)—
 - (a) for the words "application of the provisions of section 30(1) of the Social Work (Scotland) Act 1968" substitute " definition of a child for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995 "; and
 - (b) for the words "under Part V of that Act" substitute " by virtue of regulations made under that Act for the purpose of giving effect to orders made in different parts of the United Kingdom ".
- (8) In section 177 (directions by court in solemn proceedings as to conveyance of person to residential establishment), the words "provided by a local authority under Part IV of the Social Work (Scotland) Act 1968" shall cease to have effect.
- (9) In section 296 (powers of police in relation to children apprehended)—
 - (a) in subsection (3), the words from "and the child" to the end shall cease to have effect; and
 - (b) subsection (4) shall cease to have effect.



- (10) In section 304 (power to require parent to give security for child's good behaviour), after subsection (3) add—
 - "(4) In this section "parent" means either of the child's parents, if that parent has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to him.".
- (11) In section 307 (attendance at court of parent of child charged with an offence: summary procedure)—
 - (a) for subsection (4) substitute—
 - "(4) The parent or guardian whose attendance shall be required under this section shall be—
 - (a) any parent who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to the child; or
 - (b) the guardian having actual possession and control of him."; and
 - (b) in subsection (5), for the word "custody" substitute " care ".

(12) Section 323 shall cease to have effect.

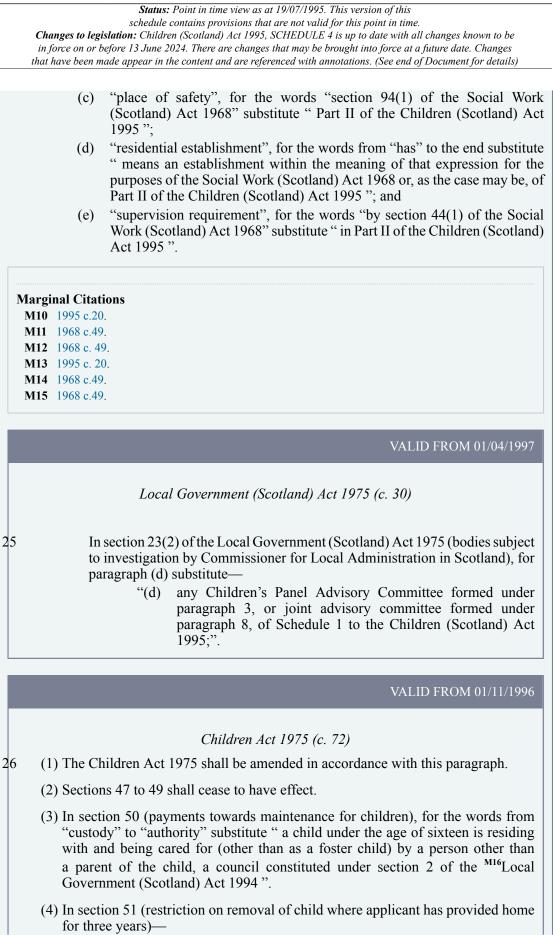
- (13) In section 329 (which, as amended by the ^{M13}Criminal Justice (Scotland) Act 1995, provides for remand of persons under twenty one in secure accommodation)—
 - (a) in sub-paragraph (i) of paragraph (a) of subsection (1), for the words "the Social Work (Scotland) Act 1968" substitute " Part II of the Children (Scotland) Act 1995"; and
 - (b) in paragraph (a) of subsection (4), for the words "the Social Work (Scotland) Act 1968" substitute " Part II of the Children (Scotland) Act 1995 ".
- (14) In section 364 (power of court to refer child to reporter where accused convicted of certain offences: summary proceedings)—
 - (a) in paragraph (c) the word "female" shall cease to have effect;
 - (b) in paragraph (ii), after the word "above" insert " or the person in respect of whom the offence so mentioned was committed "; and
 - (c) for the words "Part III of the Social Work (Scotland) Act 1968" substitute " Chapter 3 of Part II of the Children (Scotland) Act 1995".
- (15) In section 368(2) (regard to be had to certain provisions in presumption of age of child: summary proceedings)—
 - (a) for the words "application of the provisions of section 30(1) of the ^{M14}Social Work (Scotland) Act 1968" substitute " definition of a child for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995 "; and
 - (b) for the words "under Part V of that Act" substitute " by virtue of regulations made under that Act for the purpose of giving effect to orders made in different parts of the United Kingdom ".

schedule contains provisions that are not valid for this point in time. **Changes to legislation:** Children (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 13 June 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)

- (16) In section 378 (directions by court in summary proceedings as to conveyance of person to residential establishment), the words "provided by a local authority under Part IV of the Social Work (Scotland) Act 1968" shall cease to have effect.
- (17) In section 413 (detention of children found guilty in summary proceedings)—
 - (a) in subsection (1), for the words "residential care" substitute " residential accommodation provided under Part II of the Children (Scotland) Act 1995
 - (b) in subsection (3)—
 - (i) the definitions of "care" and of "the 1968 Act" shall cease to have effect; and
 - (ii) after the definition of "the appropriate local authority" insert—

""secure accommodation" has the meaning assigned to it in Part II of the Children (Scotland) Act 1995";

- (c) after subsection (3) insert the following subsection—
 - "(3A) Where a child in respect of whom an order is made under this section is detained by the appropriate local authority, that authority shall have the same powers and duties in respect of the child as they would have if he were subject to a supervision requirement.";
- (d) in subsection (4), the words "within the meaning of the 1968 Act" shall cease to have effect;
- (e) in subsection (5), the words "(within the meaning of the 1968 Act)" shall cease to have effect;
- (f) in subsection (6), for the word "care" substitute " accommodation ";
- (g) in subsection (6A), the words "within the meaning of the 1968 Act" shall cease to have effect;
- (h) in subsection (6B)—
 - (i) for the words "care of" substitute " accommodation provided by "; and
 - (ii) for the words "their care" substitute " that accommodation or any other such accommodation provided by that authority "; and
- (i) in subsection (6C)—
 - (i) for the word "care" where it first occurs substitute " accommodation provided by the appropriate local authority";
 - (ii) in paragraph (a), for the word "care" substitute " accommodation "; and
 - (iii) in paragraph (b), for the words "residential care" where they first occur substitute " detention in residential accommodation " and for those words where they secondly occur substitute " such detention ".
- (18) In section 462 (interpretation) in the definition of-
 - (a) "child", for the words "by section 30 of the ^{M15}Social Work (Scotland) Act 1968" substitute " for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995 ";
 - (b) "children's hearing", for the words "by section 34(1) of the Social Work (Scotland) Act 1968" substitute " in Part II of the Children (Scotland) Act 1995 ";



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- (a) in subsection (1), for the words "custody of" substitute " a residence order in relation to ";
- (b) for subsection (2) substitute—

"(2) In any case where subsection (1) applies, and the child—

- (a) was being looked after by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 before he began to have his home with the applicant, and
- (b) continues to be looked after by such a council,

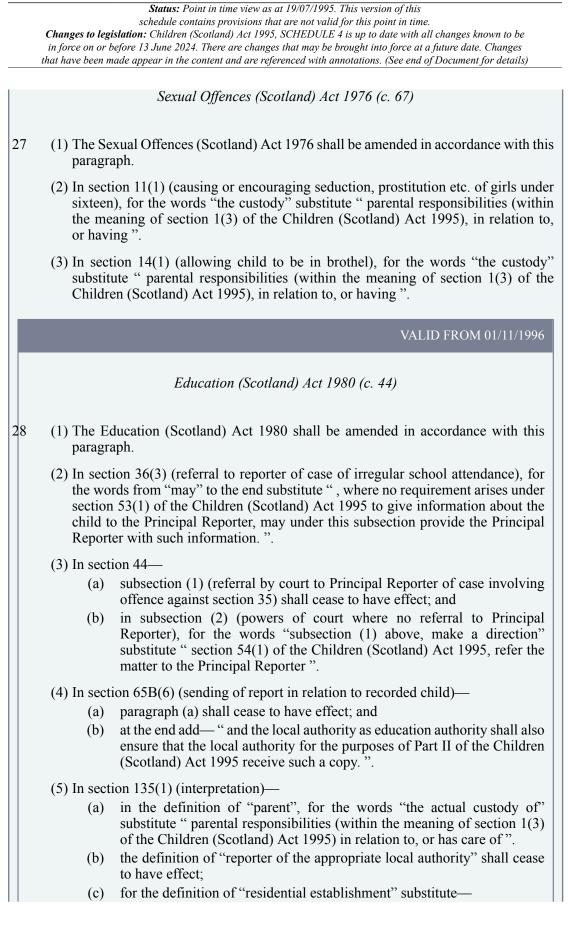
the council by whom the child is being looked after shall not remove him from the applicant's care and possession except—

- (i) with the applicant's consent;
- (ii) with the leave of the court; or
- (iii) in accordance with an order made, or authority or warrant granted, under Chapter 2 or 3 of Part II of the Children (Scotland) Act 1995."; and
- (c) at the end add—
 - "(5) In this section "looked after" and "residence order" have the meanings given respectively by section 17(6) and section 11(2)(c) of the Children (Scotland) Act 1995; and "residence order" shall have the same meaning in sections 52 and 53 of this Act.".
- (5) In section 52 (return of child taken away in breach of section 51), for the words "custody of" substitute " a residence order in relation to ".
- (6) Section 53 (custody order on application for adoption in Scotland) shall cease to have effect.
- (7) In section 55 (interpretation and extent), for the words "sections 47 to 54", in both places where they occur, substitute " sections 50 to 53 ".
- (8) Sections 73 to 84, 89, 99, 100, 102 and 103 shall cease to have effect.
- (9) Section 107 (interpretation), except in so far as subsection (1) defines "adoption society", "child" and "voluntary organisation", shall cease to have effect.
- (10) In Schedule 3 (minor and consequential amendments), paragraph 52 to 57 shall cease to have effect.

Commencement Information

Sch. 4 para. 26 fully in force at 22.1.2002; Sch. 4 para. 26 not in force at Royal Assent see s. 105(1); Sch. 4 para. 26(1)-(3),(4)(a)(c), (5)-(7) in force 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); Sch. 4 para. 26(4)(b)(9) (10) in force at 1.4.1997 by S.I. 1996/3201, art. 3(7) (with arts. 4-6) (as amended (3.7.1997) by S.I. 1997/744, arts. 2, 3); Sch. 4 para. 26(8) in force in so far as not already in force at 22.1.2002 by S.S.I. 2002/12, art. 2

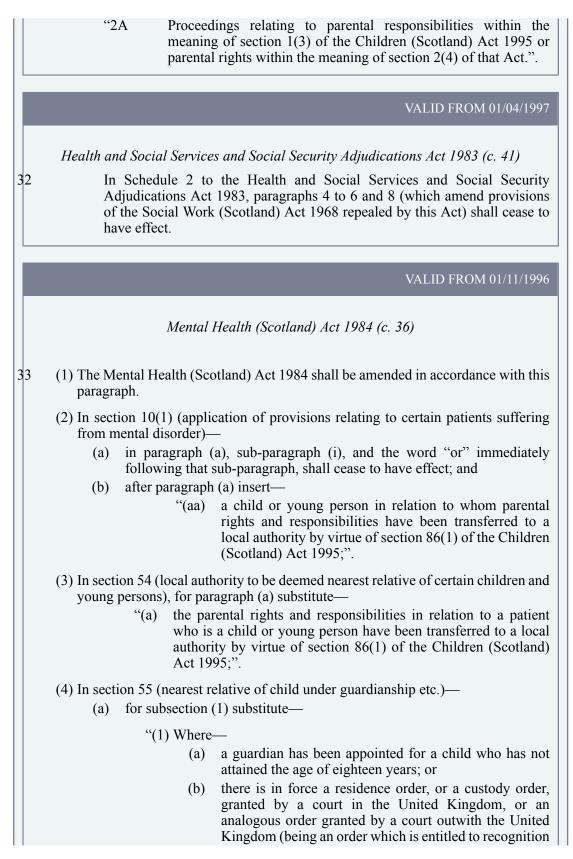
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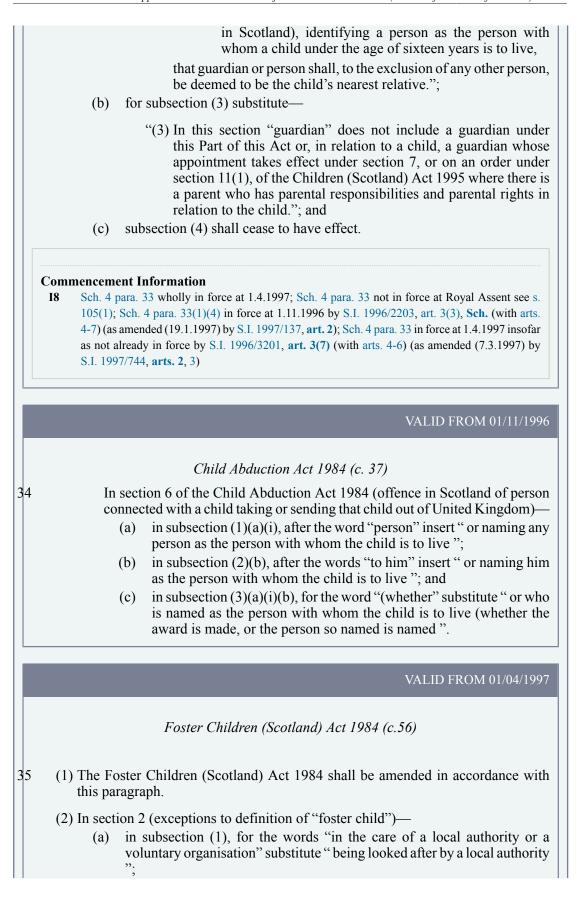


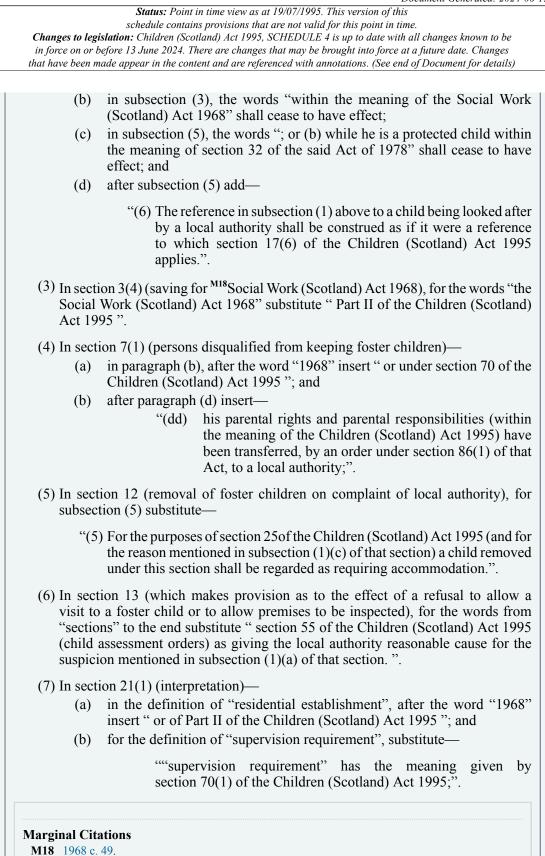
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(""residential establishment" has the meaning given by paragraph (a) of the definition of that expression in section 93(1) of the Children (Scotland) Act 1995;"; and d) for the definition of "supervision requirement" substitute— ""supervision requirement" has the meaning given by section 70(1) of the said Act of 1995;". 	
I7 Sch 105 arts inso	cement Information a. 4 para. 28 wholly in force at 1.4.1997; Sch. 4 para. 28 not in force at Royal Assent see s. 5(1); Sch. 4 para. 28(1)(5)(a) in force at 1.11.1996 by S.I. 1996/2203, art. 3(3), Sch. (with a. 4-7) (as amended (19.1.1997) by S.I. 1997/137, art. 2); Sch. 4 para. 28 in force at 1.4.1997 ofar as not already in force by S.I. 1996/3201, art. 3(7) (with arts. 4-6) (as amended (7.3.1997) S.I. 1997/744, arts. 2, 3)	
	Criminal Justice (Scotland) Act 1980 (c. 62)	
 (1) The Criminal Justice (Scotland) Act 1980 shall be amended in accordance with this paragraph. (2) In section 3 (right to have someone informed when arrested or detained), i subsection (5)(b), for the words "actual custody" substitute " care ". (3) In Schedule 7, paragraph 21 (which confers jurisdiction on a sheriff for the purpose of certain applications under section 42 of the ^{M17}Social Work (Scotland) Act 1968 shall cease to have effect. 		
Marginal C M17 1968		
	VALID FROM 01/11/1996	
30	<i>Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59)</i> In section 22 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (interpretation), in the definition of "child", for the word "accepted" substitute " treated ".	
	VALID FROM 01/11/1996	
31	<i>Civil Jurisdiction and Judgments Act 1982 (c. 27)</i> In Schedule 9 to the Civil Jurisdiction and Judgments Act 1982 (excluded	



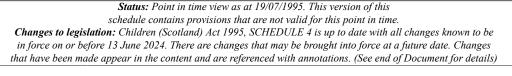


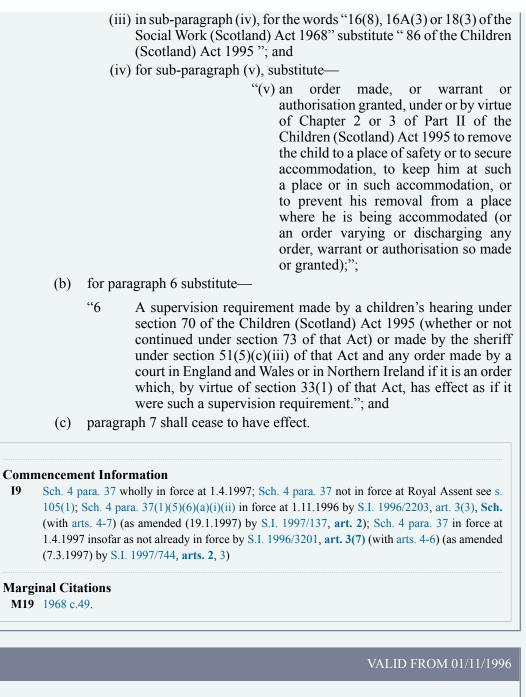


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	VALID FROM 01/11/1996	
	Family Law (Scotland) Act 1985 (c. 37)	
36	In section 2 of the Family Law (Scotland) Act 1985 (actions for aliment)— (a) in subsection (2), for paragraph (c) substitute— "(c) concerning parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) or guardianship in relation to children;"; and (b) in subsection (4)(c), for sub-paragraph (iii) substitute—	
	"(iii) a person with whom the child lives or who is seeking a residence order (within the meaning of section 11(2)(c) of the Children (Scotland) Act 1995) in respect of the child.".	
	VALID FROM 01/11/1996	
	Child Abduction and Custody Act 1985 (c. 60)	
 Child Abduction and Custody Act 1985 (c. 60) (1) The Child Abduction and Custody Act 1985 shall be amended in accordance wit this paragraph. 		
 (2) In section 9 (suspension of court's powers in cases of wrongful removal), for paragraph (d) substitute— "(d) making, varying or discharging an order under section 86 of the Children (Scotland) Act 1995;". 		
	(3) In section 20 (further provision as regards suspension of court's powers)—	
	 (a) for paragraph (d) substitute— "(d) in the case of proceedings for, or for the variation or discharge of, a parental responsibilities order under section 86 of the Children (Scotland) Act 1995, make, vary or discharge any such order;"; and 	
	 (b) in subsection (5), for the words "within the meaning of Part III of ^{M19}the Social Work (Scotland) Act 1968" substitute " (as defined in section 93(1) of the Children (Scotland) Act 1995) ". 	
(4) In section 25 (termination of existing custody orders etc.), subsection (6) shal cease to have effect.		
(5) In section 27(4) (interpretation), after the word "Wales" insert " or Scotland ".		
	 (6) In Schedule 3 (custody orders)— (a) in paragraph 5— (i) for the words "custody, care or control of a child or" substitute " residence, custody, care or control of a child or contact with, or "; (ii) in sub-paragraph (iii), for the words "tutory or curatory" substitute " guardianship "; 	





Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9)

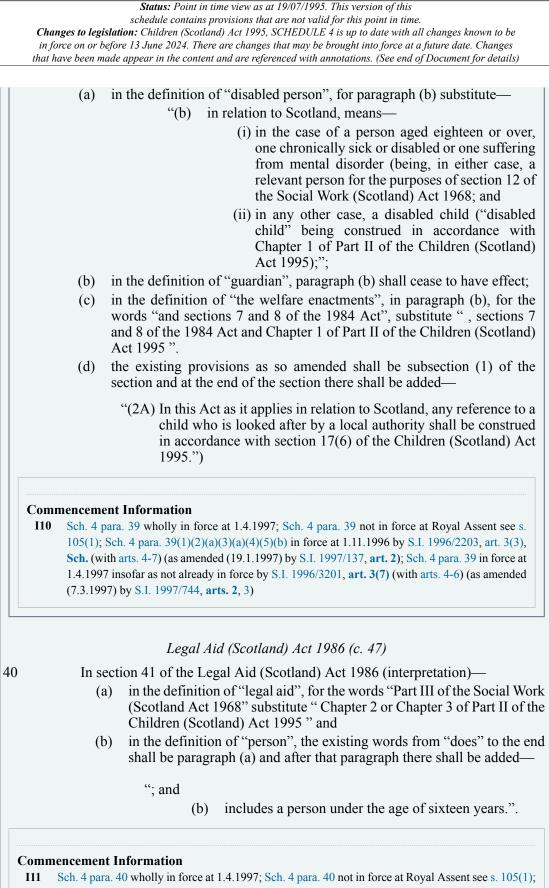
38 (1) The Law Reform (Parent and Child) (Scotland) Act 1986 shall be amended in accordance with this paragraph.

(2) In section 1 (legal equality of children), for subsection (3) substitute—

"(3) Subsection (1) above is subject to subsection (4) below, to section 9(1) of this Act and to section 3(1)(b) of the Children (Scotland) Act 1995 (parental responsibilities and parental rights of natural father).".

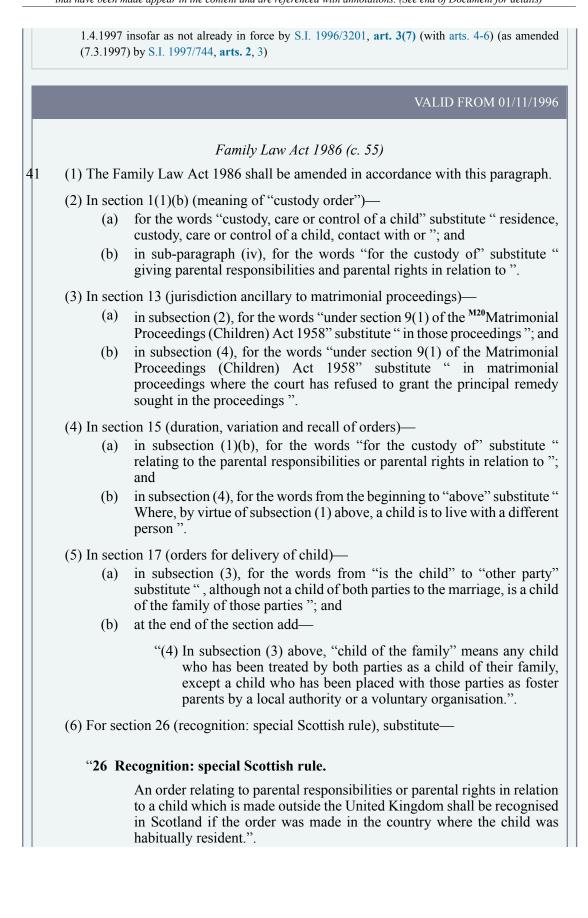
schedule contains provisions that are not valid for this point in time. **Changes to legislation:** Children (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

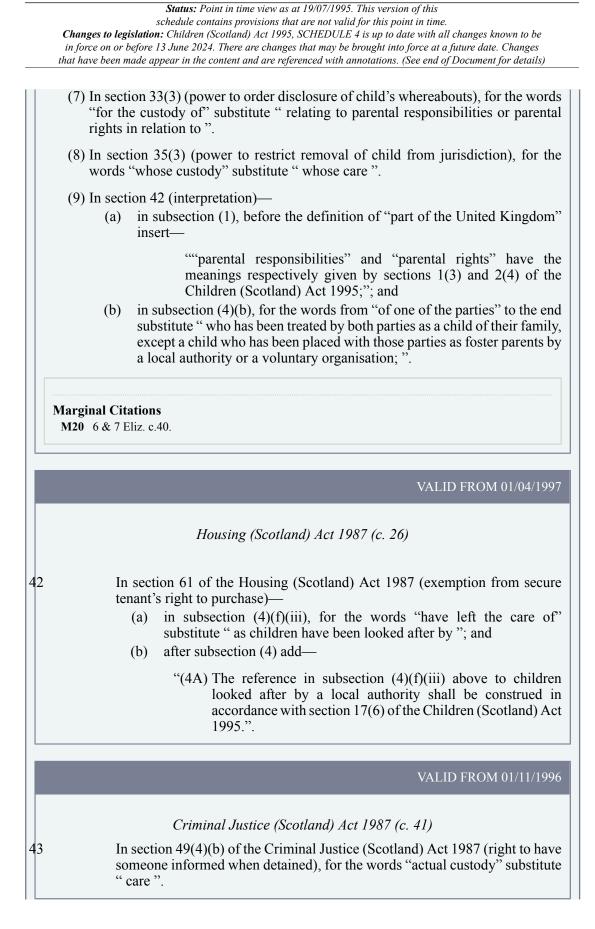
(3) In section 6(2) (consent to taking of sample of blood), for the words from "guardian" to "custody or" substitute " any person having parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him or having ". VALID FROM 01/11/1996 Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33) 39 (1) The Disabled Persons (Services, Consultation and Representation) Act 1986 shall be amended in accordance with this paragraph. (2) In section 1(3) (regulations with respect to appointment of authorised representatives of disabled persons)-(a) in paragraph (a), for the words from the beginning to "appoint" substitute-"may provide for-(i) any person who has parental responsibilities in relation to a disabled person under the age of sixteen ("parental responsibilities" having the meaning given by section 1(3) of the Children (Scotland) Act 1995); or (ii) any other person who is entitled to act as the disabled person's legal representative (as defined in section 15(5) of the Children (Scotland) Act 1995), to appoint "; and (b) in paragraph (b), for the words "in the care of" substitute " looked after by. " (3) In section 2 (rights of certain authorised representatives of disabled persons) in subsection (3)(a), for the words "the words "the parent or guardian of" (a) shall be inserted after the words "if so requested by";" substitute" for the words " by the disabled person " there shall be substituted the words " by any person appointed by virtue of regulations made under section 1(3)(a)(i) or (ii) of this Act ";" and (b) in subsection (5), after paragraph (bb) insert in Scotland, in accommodation provided by or on behalf "(bc) of a local authority under Chapter 1 of Part II of the Children (Scotland) Act 1995, or". (4) In section 13(8)(b) (limitation on requirement for assessment of needs) for the words "his parent" substitute " any person having parental (a) responsibilities in relation to him "; and after the word "request" insert " ("parental responsibilities" having the (b) meaning given in section 1(3) of the Children (Scotland) Act 1995)". (5) In section 16 (interpretation)—



Sch. 4 para. 40(b) in force at 1.11.1995 by S.I. 1995/2787, art. 3, Sch.; Sch. 4 para. 40 in force at

schedule contains provisions that are not valid for this point in time.

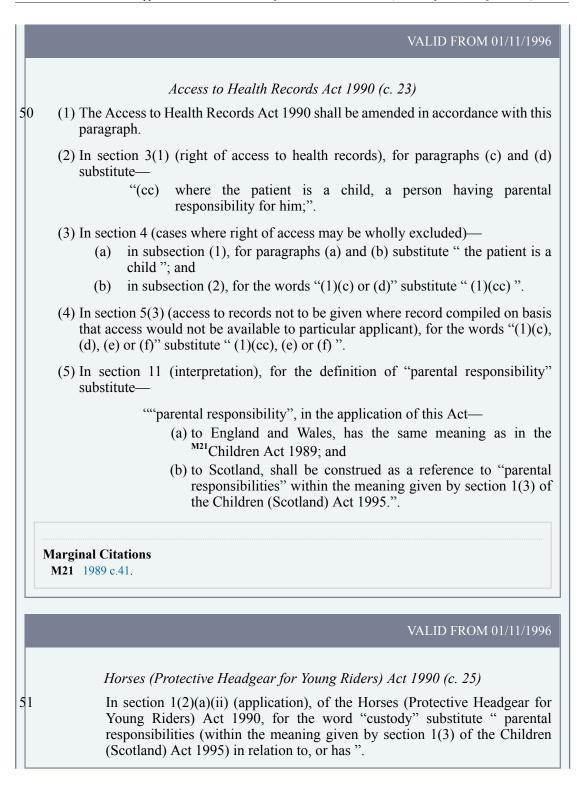




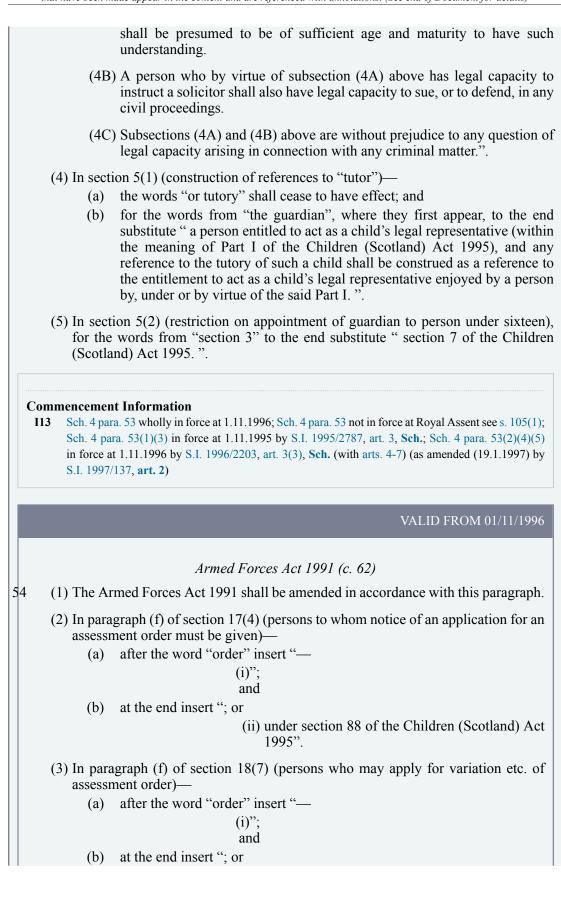
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	VALID FROM 01/04/1997
	Civil Evidence (Scotland) Act 1988 (c. 32)
44	 In paragraph (a) of the definition of "civil proceedings" in section 9 of the Civil Evidence (Scotland) Act 1988 (interpretation)— (a) the words "under section 42 of the Social Work (Scotland) Act 1968" shall cease to have effect; (b) after the word "application" where it first occurs insert " under section 65(7) or (9) of the Children (Scotland) Act 1995 "; (c) after the word "established," insert " or of an application for a review of such a finding under section 85 of that Act "; (d) after the word "application" where it occurs for the second time insert " or, as the case may be, the review "; and (e) for the words "32(2)(g)" substitute " 52(2)(i) ".
	Court of Session Act 1988 (c. 36)
45	In section 5 of the Court of Session Act 1988 (power to regulate procedure etc. by act of sederunt), after paragraph (e) insert— "(ee) to permit a person who is not an advocate or solicitor and is not represented by an advocate or solicitor to transmit, whether orally or in writing, the views of a child to the Court for the purposes of any enactment which makes provision (however expressed) for the Court to have regard to those views;".
	VALID FROM 01/11/1996
	School Boards (Scotland) Act 1988 (c. 47)
46	In section 22(2) of the School Boards (Scotland) Act 1988 (interpretation), in the definition of "parent", for the word "custody" substitute " parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him or who has care ".
	VALID FROM 01/11/1996
	Self-Governing Schools etc. (Scotland) Act 1989 (c. 39)
47	In section 80(1) of the Self-Governing Schools etc. (Scotland) Act 1989 (interpretation), in the definition of "parent", for the words "the actual custody" substitute " parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him or has care ".

	VALID FROM 01/11/1996				
	Children Act 1989 (c. 41)				
48	(1) The Children Act 1989 shall be amended in accordance with this paragraph.				
	(2) In section 31(7)(b)(iii) (restriction on applications for care and supervision orders), for the words "the Social Work (Scotland) Act 1968" substitute " Part II of the Children (Scotland) Act 1995 ".				
	 (3) In section 51(7) (enactments which do not apply where a child is granted refuge), for paragraph (b) substitute— "(b) sections 82 (recovery of certain fugitive children) and 83 (harbouring) of the Children (Scotland) Act 1995, so far as they apply in relation to anything done in England and Wales;". 				
	(4) In section 79(e) (application of Part X to Scotland), for the words from "in whom" to "vested" substitute " having parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) relating to the child ".				
	(5) In Schedule 8 (privately fostered children), in paragraph 3(b), for the words "the Social Work (Scotland) Act 1968" substitute " Part II of the Children (Scotland) Act 1995 ".				
	 Commencement Information I12 Sch. 4 para. 48 wholly in force at 1.4.1997; Sch. 4 para. 48 not in force at Royal Assent see s. 105(1); Sch. 4 para. 48(1)(4) in force 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); Sch. 4 para. 48 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) 				
	VALID FROM 01/04/1997				
	Local Government and Housing Act 1989 (c. 42)				
49	(1) The Local Government and Housing Act 1989 shall be amended in accordance with this paragraph.				
	 (2) In section 14(5) (restriction of effect of provisions of that section in relation to certain committees), for paragraph (d) substitute— "(d) a Children's Panel Advisory Committee formed under paragraph 3, or a joint advisory committee formed under paragraph 8, of Schedule 1 to the Children (Scotland) Act 1995;". 				



	VALID FROM 01/11/1996			
		Child Support Act 1991 (c. 48)		
52	(1) The Cł	and Support Act 1991 shall be amended in accordance with this paragraph.		
	(2) In section 3(4)(d) (interpretation), for the words from "having" to the end substitute " with whom a child is to live by virtue of a residence order under section 11 of the Children (Scotland) Act 1995. ".			
	the wor	ion 5(1) (supplemental provisions as respects child support maintenance), rds "(or, in Scotland, parental rights over)", in both places where they occur, ease to have effect.		
	(4) In sect (a)	fon 54 (interpretation)— for the definition of "parental responsibility" substitute—		
	(b)	 ""parental responsibility", in the application of this Act— (a) to England and Wales, has the same meaning as in the M²²Children Act 1989; and (b) to Scotland, shall be construed as a reference to "parental responsibilities" within the meaning given by section 1(3) of the Children (Scotland) Act 1995;"; and the definition of "parental rights" shall cease to have effect. 		
]	Marginal Cita M22 1968 c.			
		Age of Legal Capacity (Scotland) Act 1991 (c. 50)		
53		ge of Legal Capacity (Scotland) Act 1991 shall be amended in accordance is paragraph.		
		in sub-paragraph (i) of paragraph (f), for the words "who has no guardian or whose guardian" substitute " in relation to whom there is no person entitled to act as his legal representative (within the meaning of Part I of the Children (Scotland) Act 1995), or where there is such a person "; and in paragraph (g), for sub-paragraphs (i) and (ii) substitute " exercising		
		parental responsibilities and parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to any child of his. ".		
	(3) In sect	ion 2 (exceptions to the general rule), after subsection (4) insert-		
	"(4A)	A person under the age of sixteen years shall have legal capacity to instruct a solicitor, in connection with any civil matter, where that person has a general understanding of what it means to do so; and without prejudice to the generality of this subsection a person twelve years of age or more		



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> (ii) under section 88 of the Children (Scotland) Act 1995".

(4) In section 21(4) (which makes provision in relation to a child returned to the United Kingdom under a protection order under that Act) for the words "^{M23}Social Work (Scotland) Act 1968" substitute "Children (Scotland) Act 1995".

(5) In section 23(1) (interpretation)—

- (a) in the definition of "contact order"—
- (i) after the word "meaning" insert "-----
 - (a) except in relation to an order made in Scotland,"; and
 - (ii) at the end, add "; and
 - (b) in relation to an order there made, given by section 11(2)(d) of the Children (Scotland) Act 1995."; and
- (b) in the definition of "parental responsibility"—
 - (i) after the word "responsibility" insert "-----
 - (a) except in relation to Scotland,"; and
 - (ii) at the end add "; and
 - (b) in relation to Scotland, shall be construed as a reference to "parental responsibilities" within the meaning given by section 1(3) of the Children (Scotland) Act 1995;".

Commencement Information

Sch. 4 para. 54 wholly in force at 1.4.1997; Sch. 4 para. 54 not in force at Royal Assent see s. 105(1); Sch. 4 para. 54(1)(5) in force 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); Sch. 4 para. 54 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

M23 1968 c. 49.

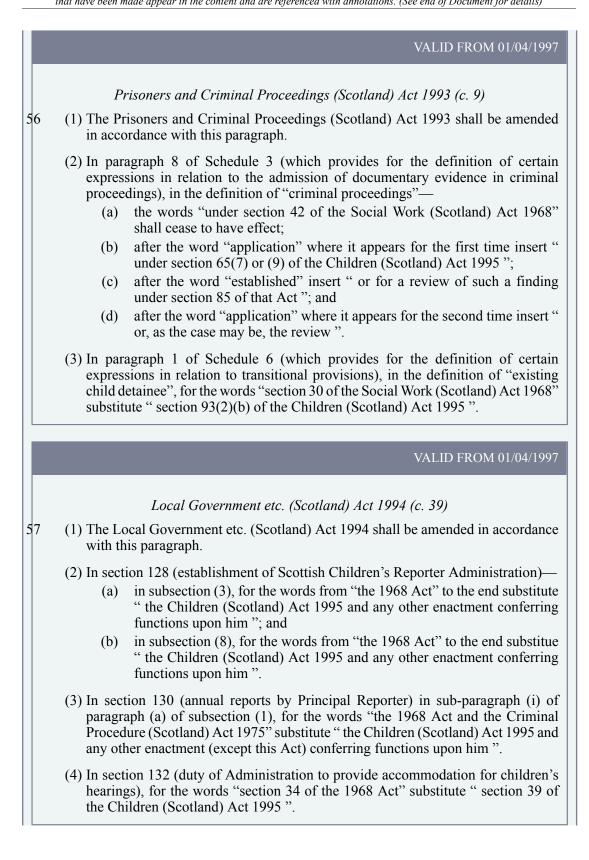
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VALID FROM 01/04/1997

Tribunals and Inquiries Act 1992 (c. 53)

In paragraph 61 in column 2 of Schedule 1 to the Tribunals and Inquiries Act 1992 (which specifies certain tribunals in relation to social work in Scotland)

- (a) in sub-paragraph (a), for the words "Social Work (Scotland) Act 1968 (c.49)" substitute " Children (Scotland) Act 1995 (c.36) "; and
- (b) in sub-paragraph (b), for the words "that Act" substitute " the Social Work (Scotland) Act 1968 (c.49) ".



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VALID FROM 01/04/1997 Children (Northern Ireland) Order 1995 (SI 1995/755 (N.I.2)) 58 In Article 70(7) of the Children (Northern Ireland) Order 1995 (enactments not to apply where child given refuge), in sub-paragraph (c), for the words "section 71 of the Social Work (Scotland) Act 1968" substitute " section 83 of the Children (Scotland) Act 1995 ". VALID FROM 01/04/1997 Civil Evidence (Family Mediation) (Scotland) Act 1995 (c. 6) 59 In section 2 of the Civil Evidence (Family Mediation) (Scotland) Act 1995 (which provides for exceptions to the general inadmissibility of evidence concerning family mediation), in paragraph (d)(ii) for the words "Part III of the Social Work (Scotland) Act 1968" (a) substitute " Chapter 2 or 3 of Part II of the Children (Scotland) Act 1995 "; and after the word "hearing" insert-(b) ", before a sheriff or before a justice of the peace; (iia) on any appeal arising from such proceedings as are mentioned in subparagraph (ii) above". VALID FROM 01/04/1997 Criminal Justice (Scotland) Act 1995 (c. 20) 60 In section 20 of the Criminal Justice (Scotland) Act 1995 (construction of sections relating to the admissibility of certain evidence)in subsection (3), in the definition of "criminal proceedings"— (a) (i) for the words from "under" to "application" where it appears for the first substitute " of an application made under Chapter 3 of Part II of the Children (Scotland) Act 1995 "; and (ii) after the word "child" insert " or for a review of such a finding "; and in subsection (5), after the word "1968" insert " or by virtue of (b) Chapter 3 of Part II of the Children (Scotland) Act 1995 ".

Status:

Point in time view as at 19/07/1995. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation:

Children (Scotland) Act 1995, SCHEDULE 4 is up to date with all changes known to be in force on or before 13 June 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.