



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

PROMOTION OF CHILDREN'S WELFARE BY LOCAL AUTHORITIES AND BY CHILDREN'S HEARINGS ETC.

CHAPTER 1

SUPPORT FOR CHILDREN AND THEIR FAMILIES

Introductory

16 Welfare of child and consideration of his views.

- (1) Where under or by virtue of this Part of this Act, ^{F1}... a court determines, any matter with respect to a child the welfare of that child throughout his childhood shall be ^{F2}... its paramount consideration.
- (2) In the circumstances mentioned in subsection (4) below, ^{F3}... the sheriff, taking account of the age and maturity of the child concerned, shall so far as practicable—
 - (a) give him an opportunity to indicate whether he wishes to express his views;
 - (b) if he does so wish, give him an opportunity to express them; and
 - (c) have regard to such views as he may express;and without prejudice to the generality of this subsection a child twelve years of age or more shall be presumed to be of sufficient age and maturity to form a view.
- (3) In the circumstances mentioned in subsection [^{F4}(4)] of this section, no ^{F5}... order so mentioned shall be made with respect to the child concerned unless ^{F6}... the sheriff considers, that it would be better for the child that the ^{F5}... order be made than that none should be made at all.

[^{F7}(4) The circumstances to which subsection (2) refers are that the sheriff is considering whether to make, vary or discharge an exclusion order.]

Status: Point in time view as at 24/06/2013.

Changes to legislation: *Children (Scotland) Act 1995, Section 16 is up to date with all changes known to be in force on or before 07 September 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)*

(5) If, for the purpose of protecting members of the public from serious harm (whether or not physical harm)—

- ^{F8}(a)
- (b) a court considers it necessary to make a determination under or by virtue of [^{F9}Chapter 1 or 3] of this Part of this Act which (but for this paragraph) would not be consistent with its affording such paramountcy, it may make that determination.

Textual Amendments

- F1** Words in s. 16(1) repealed (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(a\)\(i\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F2** Words in s. 16(1) repealed (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(a\)\(ii\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F3** Words in s. 16(2) repealed (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(b\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F4** Word in s. 16(3) substituted (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(c\)\(i\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F5** Words in s. 16(3) repealed (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(c\)\(ii\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F6** Words in s. 16(3) repealed (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(c\)\(iii\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F7** S. 16(4) substituted (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(d\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F8** S. 16(5)(a) repealed (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(e\)\(i\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3
- F9** Words in s. 16(5)(b) substituted (24.6.2013) by [Children’s Hearings \(Scotland\) Act 2011 \(asp 1\)](#), s. 206(2), [sch. 5 para. 2\(3\)\(e\)\(ii\)](#) (with s. 186); S.S.I. 2013/195, arts. 2, 3

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