



# Children (Scotland) Act 1995

## 1995 CHAPTER 36

### PART I S

#### PARENTS, CHILDREN AND GUARDIANS

##### *Guardianship*

#### 7 Appointment of guardians. S

- (1) A child's parent may appoint a person to be guardian of the child in the event of the parent's death; but—
  - (a) such appointment shall be of no effect unless—
    - (i) in writing and signed by the parent; and
    - (ii) the parent, at the time of death, was entitled to act as legal representative of the child (or would have been so entitled if he had survived until after the birth of the child); and
  - (b) any parental responsibilities or parental rights (or the right to appoint a further guardian under this section) which a surviving parent has in relation to the child shall subsist with those which, by, under or by virtue of this Part of this Act, the appointee so has.
- (2) A guardian of a child may appoint a person to take his place as guardian in the event of the guardian's death; but such appointment shall be of no effect unless in writing and signed by the person making it.
- (3) An appointment as guardian shall not take effect until accepted, either expressly or impliedly by acts which are not consistent with any other intention.
- (4) If two or more persons are appointed as guardians, any one or more of them shall, unless the appointment expressly provides otherwise, be entitled to accept office even if both or all of them do not accept office.
- (5) Subject to any order under section 11 or 86 of this Act, a person appointed as a child's guardian under this section shall have, in respect of the child, the responsibilities

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*Changes to legislation: Children (Scotland) Act 1995, Section 7 is up to date with all changes known to be in force on or before 04 July 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*

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imposed, and the rights conferred, on a parent by sections 1 and 2 of this Act respectively; and sections 1 and 2 of this Act shall apply in relation to a guardian as they apply in relation to a parent.

- (6) Without prejudice to the generality of subsection (1) of section 6 of this Act, a decision as to the appointment of a guardian under subsection (1) or (2) above shall be regarded for the purposes of that section (or of that section as applied by subsection (5) above) as a major decision which involves exercising a parental right.

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**Modifications etc. (not altering text)**

**C1** [S. 7\(5\)](#) extended (*temp.* from 22.8.1996 to 1.4.1997) by [S.I. 1996/2203](#), **art. 5(a)**

**Changes to legislation:**

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**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](#))
- Act power to modify conferred by [2010 asp 8, s. 190\(2A\)](#) (as substituted) by [2024 asp 5 s. 29\(2\)\(b\)](#)

**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. 17A inserted by [2024 asp 5 s. 24\(2\)](#)
- s. 33A inserted by [2024 asp 5 s. 30\(2\)](#)
- 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\(2\)](#)