



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

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

CHAPTER 3

PROTECTION AND SUPERVISION OF CHILDREN

Exclusion orders

77 Effect of, and orders etc. ancillary to, exclusion order.

- (1) An exclusion order shall, in respect of the home to which it relates, have the effect of suspending the named person's rights of occupancy (if any) and shall prevent him from entering the home, except with the express permission of the local authority which applied for the order.
- (2) The sheriff, on the application of the local authority, may, if and in so far as he thinks fit, when making an exclusion order do any of the things mentioned in subsection (3) below.
- (3) The things referred to in subsection (2) above are—
 - (a) grant a warrant for the summary ejection of the named person from the home;
 - (b) grant an interdict prohibiting the named person from entering the home without the express permission of the local authority;
 - (c) grant an interdict prohibiting the removal by the named person of any relevant item specified in the interdict from the home, except either—
 - (i) with the written consent of the local authority, or of an appropriate person; or
 - (ii) by virtue of a subsequent order of the sheriff;

Status: Point in time view as at 01/04/1997.

Changes to legislation: *Children (Scotland) Act 1995, Section 77 is up to date with all changes known to be in force on or before 07 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)*

- (d) grant an interdict prohibiting the named person from entering or remaining in a specified area in the vicinity of the home;
 - (e) grant an interdict prohibiting the taking by the named person of any step of a kind specified in the interdict in relation to the child;
 - (f) make an order regulating the contact between the child and the named person, and the sheriff may make any other order which he considers is necessary for the proper enforcement of a remedy granted by virtue of paragraph (a), (b) or (c) of this subsection.
- (4) No warrant, interdict or order (except an interdict granted by virtue of paragraph (b) of subsection (3) above) shall be granted or made under subsection (2) above if the named person satisfies the sheriff that it is unnecessary to do so.
- (5) Where the sheriff grants a warrant of summary ejection under subsection (2) above in the absence of the named person, he may give directions as to the preservation of any of that person’s goods and effects which remain in the family home.
- (6) The sheriff may make an order of the kind specified in subsection (3)(f) above irrespective of whether there has been an application for such an order.
- (7) On the application of either the named person or the local authority, the sheriff may make the exclusion order, or any remedy granted under subsection (2) above, subject to such terms and conditions as he considers appropriate.
- (8) In this Part of this Act references to a “relevant item” are references to any item within the home which both—
- (a) is owned or hired by any member of the family concerned or an appropriate person or is being acquired by any such member or person under a hire purchase agreement or conditional sale agreement; and
 - (b) is reasonably necessary to enable the home to be used as a family residence, but does not include any such vehicle, caravan or houseboat or such other structure so used as is mentioned in the definition of “family home” in section 76(12) of this Act.

Status:

Point in time view as at 01/04/1997.

Changes to legislation:

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