



Children (Scotland) Act 1995

1995 CHAPTER 36

PART II

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

CHAPTER 4

PARENTAL RESPONSIBILITIES ORDERS, ETC.

Parental responsibilities orders

86 Parental responsibilities order: general.

- (1) On the application of a local authority the sheriff may make an order transferring (but only during such period as the order remains in force) the appropriate parental rights and responsibilities relating to a child to them; and any such order shall be known as a "parental responsibilities order".
- (2) A parental responsibilities order shall not be made unless the sheriff is satisfied that each relevant person either—
 - (a) freely, and with full understanding of what is involved, agrees unconditionally that the order be made; or
 - (b) is a person who—
 - (i) is not known, cannot be found or is incapable of giving agreement;
 - (ii) is withholding such agreement unreasonably;
 - (iii) has persistently failed, without reasonable cause, to fulfil one or other of the following parental responsibilities in relation to the child, that is to say the responsibility to safeguard and promote the child's health, development and welfare or, if the child is not living with him, the responsibility to maintain personal relations and direct contact with the child on a regular basis; or

Status: Point in time view as at 14/11/2005. This version of this provision has been superseded.

Changes to legislation: Children (Scotland) Act 1995, Section 86 is up to date with all changes known to be in force on or before 19 August 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)

- (iv) has seriously ill-treated the child, whose reintegration into the same household as that person is, because of the serious ill-treatment or for other reasons, unlikely.
- (3) The reference in subsection (1) above to the appropriate parental rights and responsibilities relating to the child is to all parental rights and responsibilities except any right to agree, or decline to agree—
- (a) to the making of an application in relation to the child under section 18 (freeing for adoption or 55 (adoptions abroad) of the ^{M1}Adoption Act 1976, under section 18 or 49 of the ^{M2}Adoption (Scotland) Act 1978 or under Article 17, 18 or 57 of the ^{M3}Adoption (Northern Ireland) Order 1987 (corresponding provision for Scotland and Northern Ireland); or
 - (b) to the making of an adoption order.
- (4) A person is a relevant person for the purposes of this section if he is a parent of the child or a person who for the time being has parental rights in relation to the child.
- (5) The sheriff may, in an order under this section impose such conditions as he considers appropriate; and he may vary or discharge such an order on the application of the local authority, of the child, of any person who immediately before the making of the order is a relevant person or of any other person claiming an interest.
- (6) An order under this section shall, if not first discharged by the sheriff, terminate on the occurrence of any of the following—
- (a) the child attains the age of eighteen years;
 - (b) he becomes the subject—
 - (i) of an adoption order within the meaning of the Adoption (Scotland) Act 1978; or
 - (ii) of an order under section 18 (freeing for adoption) or 55 (adoption abroad) of the Adoption Act 1976 under section 18 or 49 of the said Act of 1978 or under Article 17, 18 or 57 of the Adoption (Northern Ireland) Order 1987 (corresponding provision for Scotland and Northern Ireland);
 - (c) an order is made for his return under Part I of the ^{M4}Child Abduction and Custody Act 1985; or
 - (d) a decision, other than a decision mentioned in section 25(2) of the said Act of 1985 (decisions relating to rights of access), is registered with respect to him under section 16 of that Act.

Marginal Citations

- M1** 1976 c.36.
M2 1978 c.28.
M3 S.I. 1987/2203 (N.I.22)
M4 1985 c.60.

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