



Age of Legal Capacity (Scotland) Act 1991

1991 CHAPTER 50

5 Guardians of persons under 16.

- (1) Except insofar as otherwise provided in Schedule 1 to this Act, as from the commencement of this Act any reference in any rule of law, enactment or document to the tutor ^{F1} . . . of a pupil child shall be construed as a reference to [^{F2}a person entitled to act as a child's legal representative (within the meaning of Part I of the Children (Scotland) Act 1995), and any reference to the tutory of such a child shall be construed as a reference to the entitlement to act as a child's legal representative enjoyed by a person by, under or by virtue of the said Part I.]
- (2) Subject to section 1(3)(f) above, as from the commencement of this Act no guardian of a person under the age of 16 years shall be appointed as such except under [^{F3}section 7 of the Children (Scotland) Act 1995.]
- (3) As from the commencement of this Act, no person shall, by reason of age alone, be subject to the curatory of another person.
- (4) As from the commencement of this Act, no person shall be appointed as factor loco tutoris.

Textual Amendments

- F1** Words in s. 5(1) repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 53(4)(a), Sch. 5 (with s. 103(1)); S.I. 1996/2203, art. 3(3), Sch. Table
- F2** Words in s. 5(1) substituted (1.11.1996) by 1995 c. 36, s. 105(4), Sch. 4 para. 53(4)(b) (with s. 103(1)); S.I. 1996/2203, art. 3(3), Sch.
- F3** Words in s. 5(2) substituted (1.11.1996) by 1995 c. 36, s. 105(4), Sch. 4 para. 53(5) (with s. 103(1)); S.I. 1996/2203, art. 3(3), Sch.

Changes to legislation:

Age of Legal Capacity (Scotland) Act 1991, Section 5 is up to date with all changes known to be in force on or before 08 May 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3)(da) inserted by [2024 asp 2 Sch. 1 para. 17\(a\)](#)