

***PARENTAL RESPONSIBILITIES
AND
PARENTAL RIGHTS
AGREEMENTS***

The Children (Scotland) Act 1995



SCOTTISH EXECUTIVE

THE PARENTAL RESPONSIBILITIES AND PARENTAL RIGHTS AGREEMENT

MAKING THIS AGREEMENT WILL BE AN IMPORTANT STEP FOR BOTH OF YOU

THINK ABOUT IT CAREFULLY AND DISCUSS IT WITH PEOPLE WHO CAN GIVE YOU GOOD ADVICE -

You can get advice from your local citizens advice bureau

a law centre

a solicitor (see back page for useful addressees)

You may wish to discuss it with your family and any social, community or health worker you have.

If there is anything you are unsure about you should certainly ask a solicitor for advice.

WHAT IS A PARENTAL RESPONSIBILITIES AND PARENTAL RIGHTS AGREEMENT?

It is a legal document showing that a mother who has parental responsibilities and rights and the child's father who is not married to her have both agreed that the mother should share her parental responsibilities and rights with the child's father.

To make the agreement the mother and father have to complete a special form together, sign it before witnesses, and register it with the Registers of Scotland.

WHEN CAN YOU MAKE THE AGREEMENT

You can only do this if

- the child has been born
- the mother has not had any parental responsibilities and rights taken away by a court order
- the father is the natural father, and not for example a step-father or a partner who is not the actual father of the child
- the father does not already have any parental responsibilities or rights in relation to the child.

IMPORTANT

Remember that until you make the Agreement only the mother has parental responsibilities and rights, so **she** must decide if she should agree to share them with the father. In making this decision she should think about **what is in the child's interests**.

If you are making the agreement about an older child:

the mother should also pay attention to the child's views if he or she wishes to express them. You have to take account of the child's age and maturity: if the child is 12 or above the mother should assume that he or she is old enough and mature enough to form a view. If the child really understands what it is about and doesn't want the mother to make the agreement, the mother should think very hard about whether it would still be in the child's interests to make the agreement.

You can still make the agreement even if someone else - for example a grandparent - has been given parental responsibilities and rights, or has been made the child's guardian, as long as none of the mother's parental responsibilities and rights have been taken away; but the mother should also take account of that person's views.

You can make an agreement even if you are under 16 (if you are under 16 you should definitely get advice before doing so).

HOW TO MAKE THE AGREEMENT

Once you have considered everything carefully and decided to make an agreement, study the form of agreement. There should be one with this folder or you can get a copy from your local Registrar of Births Deaths and Marriages or from a Citizens Advice Bureau.

If you wish to share parental responsibilities and rights for more than one child, you will need a separate form for each child.

The notes in the form explain what you must do and what is involved. If there is anything you do not understand, or if you need help in completing it, you should ask for advice.

You have to fill in your names and addresses and the name, sex, and date of birth of the child in the boxes on the form. PLEASE USE BLOCK CAPITALS. You both have to sign in the boxes provided, put the date of signing and the place, for example the town, you are in. Ask someone aged 16 or over who knows you to witness your signatures. You can either have a witness each or one witness for both of you. The witness does not need to know what the agreement is about. After you have signed, the witness(es) must sign and add their name(s) and address(es).

The agreement does not have legal effect until it is entered in a public register called “the Books of Council and Session”. To do this you must send it to the Keeper of the Registers of Scotland at the address given on the form. You must enclose the registration fee with the form. When this folder was printed the fee was £20.05, but you should telephone Registers of Scotland to check how much it is now. The number is: **0131 479 3630**.

You can send a crossed cheque or postal order made out to “Registers of Scotland” with the completed form, or you can take the form yourself with the fee to Erskine House, 68 Queen Street, Edinburgh EH2 4NF.

If the form has been correctly filled in and the fee paid, you will each be sent an “extract” of the agreement at the addresses you gave on the form. The “extract” is a copy of the agreement showing the date of registration. The father’s parental responsibilities and rights begin on that date, assuming that the mother has not been deprived of any of her parental responsibilities and rights before the agreement is registered.

In case the staff at Registers of Scotland have to get in touch with you about your form or the fee, you should indicate at the end of the form which of you they should contact. It may help if you can give a contact telephone number. If someone else such as a solicitor or a relative is sending in the form, he or she can put in his or her name in the box provided.

Once the Agreement has been registered it cannot be changed or ended except by an order made by a court. The court can also make orders depriving a person of some or all of his parental responsibilities or rights.

Are you a mother or a father?

What are your responsibilities as a parent ?...

The Children (Scotland) Act 1995 has set down in law what a parent's responsibilities are:

- you must - in the interests of your child and as far as practicable- safeguard and promote your child's health, development and welfare
- give your child the direction and guidance he or she needs
- keep up your personal relationship and contact with your child - even if you do not normally live with him or her
- act when necessary as your child's legal representative

Parents with these responsibilities also have related rights so that they can carry out their responsibilities

For example, one parental responsibility is to provide a home for the child; a related right is to say where the child is going to live.

Who has these responsibilities and rights?

All mothers have these responsibilities and rights - only an order by a court can take any of them away

A father also has these responsibilities and rights, but only **if** -

* he was **married** to his child's mother at the time of the child's conception (or at any time after that)

* he has been given them by a court order OR

* he has made and registered, together with the mother,

a **Parental Responsibilities and Parental Rights Agreement**

THIS FOLDER GIVES DETAILS OF HOW YOU CAN DO THIS

Remember that **all parents** - whether or not they have parental responsibilities and parental rights - have the duty to **maintain** their children

Where you can get advice:

Your local Citizens Advice Bureau:

You can find the address in the telephone directory or by contacting:

Citizens Advice Scotland
26 George Square
Edinburgh EH8 9LD
Telephone: 0131 667 0156

You can find the addresses of local solicitors or law centres in Yellow Pages
or by contacting:

The Law Society of Scotland
26 Drumsheugh Gardens
Edinburgh EH3 7YR
Telephone 0131 226 7411

Legal aid may be available for advice from a solicitor.

Copies of this leaflet are available at Citizens Advice Bureaux and Registrars Offices or by contacting:

Scottish Executive Justice Department
Room 2S.01
St. Andrew's House
Regent Road
Edinburgh EH1 3DG
Telephone 0131 244 3581
E-mail: civil.law.policy@scotland.gov.uk