

# **PARENTAL RESPONSIBILITIES AND PARENTAL RIGHTS AGREEMENT**

## **UNDER SECTION 4(1) OF THE CHILDREN (SCOTLAND) ACT 1995**

### **IMPORTANT**

*Making this agreement will affect the legal position of the mother and father. Read the following information and the notes very carefully before you make the agreement.*

*You are strongly recommended to seek advice before you make the agreement from, for example, a Citizens Advice Bureau, a law centre or a solicitor. They can also help you if you have any problems making the agreement. If you need a solicitor's advice you may be eligible for legal aid.*

*This agreement will give the father of the child parental responsibilities and parental rights in relation to the child where he does not already have them. The mother of the child will continue to have parental responsibilities and parental rights in relation to the child.*

*The mother of a child always has parental responsibilities and parental rights in relation to the child, unless she has been deprived of them by a court order. However a father of a child only has parental responsibilities and parental rights in relation to a child if*

- (a) he is married to the child's mother at the time of the child's conception or subsequently;
- (b) on or after 4<sup>th</sup> May 2006 he is registered as the father of a child under any of the following enactments—
  - (i) sections 18(1)(a), (b)(i) and (c) and (2)(b) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c.49);
  - (ii) sections 10(1)(a) to (e) and 10A(1)(a) to (e) of the Births and Deaths Registration Act 1953 (c.20); and
  - (iii) article 14(3)(a) to (e) of the Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041);
- (c) he is given parental responsibilities and parental rights by a court order under section 11 of the Children (Scotland) Act 1995 (“the Act”); or
- (d) he is given parental responsibilities and parental rights by this agreement.

*In deciding whether or not to enter into this agreement the mother should consider whether, in doing so, she would be fulfilling her parental responsibilities towards the child and, in particular, her responsibility in section 1(1)(a) of the Act -*

- “(a) to safeguard and promote the child’s health, development and welfare ... but only insofar as compliance with this section is practicable and in the interests of the child.”

*Furthermore, in terms of section 6 of the Act, the mother should -*

*“have regard so far as practicable to the views (if he wishes to express them) of the child concerned, taking account of the child’s age and maturity, and to those of any other person who has parental responsibilities or parental rights in relation to the child (and wishes to express those views); and ... a child twelve years of age or more shall be presumed to be of sufficient age and maturity to form a view.”*

## **NOTES ABOUT THE PARENTAL RESPONSIBILITIES AND PARENTAL RIGHTS AGREEMENT**

### **Who can make the agreement**

1. This agreement can only be made if
  - (a) the mother has not been deprived of any of her parental responsibilities and parental rights in relation to the child;
  - (b) the father does not have any parental responsibilities or rights in relation to the child because he was not married to the child's mother at the time of the child's conception or subsequently;
  - (c) the father does not have any parental responsibilities or rights in relation to the child by virtue of his registration as the father of the child on or after 4th May 2006 under any of the following enactments—
    - (i) sections 18(1)(a), (b)(i) and (c) and (2)(b) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965;
    - (ii) sections 10(1)(a) to (e) and 10A(1)(a) to (e) of the Births and Deaths Registration Act 1953; and
    - (iii) article 14(3)(a) to (e) of the Births and Deaths Registration (Northern Ireland) Order 1976.

### **The child**

2. Put the name of one child only on the agreement. If the father is to have parental responsibilities and rights in relation to more than one child, you should make a separate agreement for each child.

### **When the agreement has effect**

3. This agreement only has effect if
  - (a) it is in the form prescribed by the Scottish Ministers, and
  - (b) it is registered in the Books of Council and Session while the mother still has the parental responsibilities and parental rights which she had when the agreement was made.

### **Signing the agreement**

4. In signing this agreement, you are also consenting to its registration in the books of Council and Session where it is then preserved.
5. The child's mother and the child's father must each sign the agreement, where indicated, in the presence of one witness who must be aged 16 or over. It is not necessary that the witness should be made aware of the contents of the agreement. The same person can witness both signatures.
6. After the agreement has been signed and witnessed, the agreement should be sent to:

**The Keeper of the Registers of Scotland**  
**Books of Council and Session**  
**Erskine House**  
**68 Queen Street**  
**Edinburgh EH2 4NF**

You must also enclose the fee to cover the cost of registration and the sending of an extract of the agreement to you at the addresses you have given on the form. You can find out the fee by telephoning the Registers of Scotland on 0131 479 3630. Cheques or postal orders should be made out to the Registers of Scotland and crossed.

**See note 1** 1. This is an agreement between

(a) the child's mother Name

Address

and

(b) the child's father Name

Address

**See note 2** (c) regarding the child Name

Boy or Girl

Date of Birth

day

month

year

- See note 3**
2. We agree that, as from the date specified in paragraph 3 below, the child's father shall have the parental responsibilities and parental rights in relation to the child named above which he would have if married to the mother.
  3. The date specified is the date when this agreement is registered in the Books of Council and Session, unless on that date the mother no longer has the parental responsibilities and parental rights which she had when the agreement was made.
- See note 4**
4. We agree to the registration of this agreement for preservation in the Books of Council and Session and we each request an extract.

**See notes 5-8**

Signed (Mother)

Signed (Father)

Date

day

month

year

Date

day

month

year

Place

Place

in the presence of

in the presence of

*(Signature of Witness)*

*(Signature of Witness)*

Full name of Witness

Full name of Witness

Address

Address

Ending the Agreement

7. When an agreement has been made and has effect, it cannot be revoked by either the child’s mother or the child’s father but it can be brought to an end by a court order under section 11 of the Act. The court can also make an order under section 11 depriving a person of some or all of his parental responsibilities or parental rights.

Contact Details

8. In case the Keeper of the Registers of Scotland needs to contact you about the agreement, you may wish to say who you would like him to contact:

<b>Mother</b>	
Daytime telephone number	<i>Please tick <u>one</u> box</i>
<input type="text"/>	<input type="checkbox"/>
<b>Father</b>	
Daytime telephone number	
<input type="text"/>	<input type="checkbox"/>
or	
<b>Other</b>	
Name	
<input type="text"/>	<input type="checkbox"/>
Daytime telephone number	
<input type="text"/>	