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Changes to legislation: Adoption and Children (Scotland) Act 2007, Cross Heading: Provisions applicable to adoption orders and permanence orders is up to date with all changes known to be in force on or before 03 April 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)



Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 3

MISCELLANEOUS

Provisions applicable to adoption orders and permanence orders

VALID FROM 28/09/2009

105 Notification of proposed application for order

- (1) Subsection (2) applies where—
- (a) a local authority—
 - (i) proposes to make an application for a permanence order in respect of a child, or
 - (ii) becomes aware that an application for an adoption order in respect of a child in its area has been, or is to be, made,
 - (b) the father of the child is not married to the mother of the child on the relevant date,
 - (c) the father, never having had parental responsibilities or parental rights in relation to the child, does not have such responsibilities or rights on the relevant date, and
 - (d) the authority—
 - (i) knows the identity and whereabouts of the father, or
 - (ii) can, by taking such reasonable and practicable steps as are appropriate in the circumstances of the case, ascertain that information.
- (2) The local authority must, on or after the relevant date—
- (a) give notice to the father that—
 - (i) it proposes to apply for a permanence order,

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- (ii) an application for an adoption order has been made, or
 - (iii) an application for an adoption order is to be made,
- as the case may be, and
- (b) provide the father with prescribed information relating to the processes for applying for the order in question.
- (3) Where a local authority is required to give notice under subsection (2)(a)(i), it must give the notice at least 4 weeks before the application for the permanence order is made.
- (4) Where a local authority is required to give notice under sub-paragraph (ii) or (iii) of subsection (2)(a), it must give the notice as soon as is reasonably practicable after it becomes aware that the application for an adoption order has been or, as the case may be, is to be made.
- (5) In this section—
- (a) “relevant date” means—
 - (i) the date on which the local authority determines it will make the application mentioned in sub-paragraph (i) of subsection (1)(a), or
 - (ii) the date on which the authority becomes aware of the application mentioned in sub-paragraph (ii) of that subsection,
 as the case may be,
 - (b) “prescribed” means prescribed by regulations made by the Scottish Ministers.

106 Child subject to supervision requirement: duty to refer to Principal Reporter

- (1) Subsection (2) applies where—
- (a) a child is subject to a supervision requirement,
 - (b) a registered adoption service is satisfied that the best interests of the child would be served by placing the child for adoption, and
 - (c) it intends to place the child for adoption.
- (2) The registered adoption service must refer the child's case to the Principal Reporter.
- (3) The Scottish Ministers may make regulations specifying by reference to the occurrence of an event or events described in the regulations the period of time during which a referral under this section is to be made.
- (4) In subsection (2), “Principal Reporter” has the same meaning as in Part II of the 1995 Act.

Commencement Information

II S. 106(3) in force at 20.4.2009 for specified purposes by S.S.I. 2009/147, art. 2, Sch.

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107 Making of adoption order no longer to be bar to making of contact order

In section 11 of the 1995 Act (court orders relating to parental responsibilities etc.), in subsection (3)—

- (a) in paragraph (a), sub-paragraph (iii) is repealed,
- (b) after that paragraph insert—
 - “(aa) that application for a contact order is made with the leave of the court by a person whose parental responsibilities or parental rights in relation to the child were extinguished on the making of an adoption order;
 - (ab) that application for an order under subsection (1) above (other than a contact order) is made by a person who has had, but for a reason other than is mentioned in subsection (4) below, no longer has, parental responsibilities or parental rights in relation to the child;”, and
- (c) in paragraph (b), for “such application” substitute “ application for an order under subsection (1) above ”.

108 Rules: appointment of curators ad litem and reporting officers

- (1) In the case of an application for a relevant order in relation to a child, rules of court must provide for the appointment, in such cases as are prescribed by the rules—
 - (a) of a person to act as curator *ad litem* of the child on the hearing of the application, with the duty of safeguarding the interests of the child in such manner as may be so prescribed,
 - (b) of a person to act as reporting officer for the purpose of witnessing agreements to adoption and performing such other duties as may be so prescribed.
- (2) Rules may in particular make provision—
 - (a) enabling the reporting officer to be appointed before the application is made,
 - (b) enabling the court to appoint the same person to be curator *ad litem* and reporting officer.
- (3) Rules may not make provision for—
 - (a) the appointment of a person who is employed by an adoption agency which has placed a child for adoption to act as curator *ad litem* or reporting officer for the purposes of an application for an adoption order in respect of the child,
 - (b) the appointment of a person who is employed by a local authority which is making (or has made) an application for a permanence order to act as curator *ad litem* or reporting officer for the purposes of the application.
- (4) A relevant order means—
 - (a) an adoption order,
 - (b) a permanence order, or
 - (c) an order under section 59.

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Commencement Information

I2 S. 108 in force at 20.4.2009 for specified purposes by [S.S.I. 2009/147](#), [art. 2](#), [Sch.](#)

VALID FROM 28/09/2009

109 Proceedings to be in private

- (1) Any proceedings before the court relating to applications under any of the provisions mentioned in subsection (2) must be heard and determined in private unless the court otherwise directs.
- (2) Those provisions are—
 - (a) section 24,
 - (b) section 29,
 - (c) section 30,
 - (d) section 59,
 - (e) section 80,
 - (f) section 92,
 - (g) section 93, and
 - (h) section 99.

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