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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 154**

**The Adoption Agencies (Scotland) Regulations 2009**

**PART VI**

**APPLICATION FOR PERMANENCE ORDER**

**Application for a permanence order: child not subject to supervision requirement**

**21.**—(1) This regulation applies where an adoption agency which is a local authority is considering making arrangements for adoption in respect of a child who is not subject to a supervision requirement.

(2) The adoption agency must make an application for a permanence order in accordance with paragraph (3) by the end of the period of 28 days from—

- (a) the receipt of the certificate specified in regulation 16(3)(b) or 17(3)(b) certifying that the parent or guardian does not agree with the decision; or
- (b) the date the adoption agency makes a determination to proceed under regulation 20 as though the parental agreement is not forthcoming.

(3) In making the application for a permanence order the local authority must, in that application, request that the order include—

- (a) ancillary provisions vesting in the local authority the parental responsibilities and parental rights referred to in section 82(1)(a) of the Act; and
- (b) provision granting authority for the child to be adopted.

(4) Paragraph (2) does not apply where an application for an adoption order has been made in relation to the child.

**Child subject to supervision requirement: referral to the Principal Reporter**

**22.**—(1) This regulation applies where—

- (a) an adoption agency which is a local authority is under a duty to refer the case of the child to the Principal Reporter under section 73(4)(c)(i) or (v) of the 1995 Act; or
- (b) an adoption agency which is a registered adoption service is under a duty to refer the case of a child to the Principal Reporter under section 106 of the Act.

(2) The referral to the Principal Reporter shall not be made unless the adoption agency—

- (a) has received the certificate referred to in regulation 16(3)(b) or 17(3)(b) confirming the agreement of each parent or guardian of the child to the decision of the adoption agency; or
- (b) regulation 20 applies.

(3) The referral to the Principal Reporter must be made in the form set out in Schedule 8 or in a form to like effect.

### **Application for a permanence order: child subject to supervision requirement**

**23.—**(1) This regulation applies where an adoption agency which is a local authority, following a decision under regulation 13(1), is considering making arrangements for adoption in respect of a child who is subject to a supervision requirement.

(2) Where the adoption agency has made a determination to proceed as though parental consent is not forthcoming in accordance with regulation 20 the adoption agency must notify the Principal Reporter of its determination within 7 days from the date it made that determination.

(3) Where—

(a) paragraph (2) applies; and

(b) the adoption agency receives a report from a children's hearing under section 73(13) of the 1995 Act which provides advice in support of the decision of the adoption agency made under regulation 13(1) in relation to the child,

the adoption agency must, within a period of 28 days from the date it receives the report from the children's hearing, make an application for a permanence order in accordance with paragraph (7).

(4) Where the adoption agency receives a report from a children's hearing under section 73(13)(1) of the 1995 Act which provides advice which does not support the decision of the adoption agency made under regulation 13(1) in relation to the child the adoption agency must, within 28 days from the date it receives the report from the children's hearing, review its decision.

(5) In reviewing its decision under paragraph (4) the adoption agency must—

(a) take into account the report from the children's hearing;

(b) take into account any further recommendations it may wish to seek; and

(c) notify the Principal Reporter of its decision.

(6) Where the adoption agency makes a decision that adoption remains in the best interests of the child following a review under paragraphs (4) and (5) it must make an application for a permanence order in accordance with paragraph (7) within 28 days from the date of the children's hearing.

(7) In making an application for a permanence order the local authority must, in that application, request that the order include—

(a) ancillary provisions vesting in the local authority the parental responsibilities and the parental rights referred to in section 82(1)(a) of the Act; and

(b) provision granting authority for the child to be adopted.

(8) Paragraphs (3), (4), (5) and (6) do not apply where an application for an adoption order has been made in relation to the child.