
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 267

**The Adoption and Children (Scotland) Act
2007 (Commencement No. 4, Transitional
and Savings Provisions) Order 2009**

PART III

TRANSITIONAL AND SAVINGS PROVISIONS

CHAPTER 1

ADOPTION

Applications for adoption orders under the 1978 Act

3.—(1) Where, before the appointed day, an application for an adoption order has been made under section 14 (adoption by married couple) or 15 (adoption by one person)⁽¹⁾ of the 1978 Act and not yet determined the provisions of that Act continue to have effect in respect of that application.

(2) Where a court has postponed the determination of an application for an adoption order made under the 1978 Act and granted an order under section 25 (interim orders)⁽²⁾ of that Act, that order will continue to have effect.

Restrictions on removal of children: pending applications for adoption

4. Sections 28 (restrictions on removal where applicant has provided home for 5 years)⁽³⁾ and 29 (return of child taken away in breach of s.27 or 28)⁽⁴⁾ of the 1978 Act continue to have effect where an application for an adoption order has been made under section 14 or 15 of the 1978 Act and not yet determined on the appointed day.

Cases in progress under the Agencies Regulations 1996

5.—(1) This article applies where a case is still in progress on the appointed day under a provision of the Agencies Regulations 1996.

(2) Any action or decision under a provision of the Agencies Regulations 1996 will, on or after the appointed day, be treated as if it were an action or decision under the corresponding provision of the Agencies Regulations 2009.

(3) Where, before the appointed day, an adoption panel has considered—

- (a) whether adoption is in the best interests of the child;
- (b) whether a prospective adopter is suitable to adopt a child; or

(1) Sections 14 and 15 were amended by section 15(1) of, and Schedule 2 to, the Adoption (Intercountry Aspects) Act 1999 c.18.

(2) Section 25 was amended by the 1995 Act, Schedule 2.

(3) Section 28 was amended and repealed in part by the 1995 Act, Schedules 2 and 5.

(4) Section 29 was amended by the Children Act 1989 c.41, Schedule 10 and the Adoption and Children Act 2002 c.38, Schedule 3.

(c) whether a prospective adopter would be a suitable adoptive parent for a particular child, and no decision on that question has been made by the adoption agency before the appointed day, the Agencies Regulations 1996 continue to apply for the purposes of making that decision.

(4) Where an adoption agency makes a decision under the Agencies Regulations 1996 (whether before the appointed day or, by virtue of paragraph (3), on or after that day) that a prospective adopter is suitable to adopt a particular child—

(a) the Agencies Regulations 1996 continue to apply for the purposes of placing the child with the prospective adopter; and

(b) any such placement will be treated as if it were made under the Agencies Regulations 2009.

(5) Where an adoption agency makes a decision under the Agencies Regulations 1996 (whether before the appointed day or, by virtue of paragraph (3), on or after that day) that a prospective adopter is not suitable to be an adoptive parent—

(a) the Agencies Regulations 1996 continue to apply for the purposes of providing notification of its decision; and

(b) regulations 8 (approval of prospective adopters) and 9 (review of adoption agency decisions) of the Agencies Regulations 2009 will not apply.