
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 3

PARENTAL RESPONSIBILITIES ORDERS

Parental responsibilities orders made before the appointed day: deemed permanence order

13.—(1) A child who is subject to a parental responsibilities order immediately before the appointed day shall be treated as if they were subject to a permanence order.

(2) The permanence order will be deemed to consist of—

- (a) the mandatory provision specified in section 81(1) (permanence order: mandatory provision) of the Act;
- (b) the following ancillary provisions specified in section 82(1) (permanence orders: ancillary provisions) of the Act vesting in the local authority:—
 - (i) the parental responsibilities mentioned in section 1(1) (parental responsibilities) of the 1995 Act⁽¹⁾; and
 - (ii) the parental rights mentioned in section 2(1) (parental rights) of the 1995 Act⁽²⁾; and
- (c) any condition in the parental responsibilities order imposed under section 86(5) (parental responsibilities order: general) of the 1995 Act which—
 - (i) specifies arrangements for contact between the child and any other person; or
 - (ii) determines any question in connection with any parental responsibilities or parental rights in relation to the child or any other aspect of the welfare of the child.

(3) In this article “local authority” means the authority on whose application the parental responsibilities order was made.

Applications for parental responsibilities orders under the 1995 Act

14.—(1) Where, before the appointed day, an application for a parental responsibilities order has been made to the sheriff under section 86(1) of the 1995 Act and not yet determined sections 86 to 89 of that Act continue to have effect in respect of that application.

(1) Section 1(1) is prospectively amended by the Human Fertilisation and Embryology Act 2008 c.22, Schedule 6.

(2) Section 2(1) is prospectively amended by the Human Fertilisation and Embryology Act 2008 c.22, Schedule 6.

(2) Where the sheriff makes a parental responsibilities order following an application referred to in paragraph (1) the child who is subject to that order shall be treated as if they were subject to a permanence order and article 13(2) and (3) applies to that deemed permanence order.

Applications to vary, amend or revoke a deemed permanence order

15.—(1) This article applies where a child is subject to a permanence order by virtue of article 13(1) or 14(2) and an application to vary, amend or revoke the permanence order is made under section 92 (variation of ancillary provisions in order), 93 (amendment of order to grant authority for child to be adopted) or 98 (revocation) of the Act.

(2) Section 92 of the Act applies as if for paragraph (d) of subsection (3) there were substituted—

“(d) any person in whom were vested any parental responsibilities or parental rights which, by virtue of the making of a parental responsibilities order in respect of the child, vest in a local authority.”.

(3) Section 93 of the Act applies as if for paragraph (b) in subsection (6) in the definition of “parent” there were substituted—

“(b) who, by virtue of the making of a parental responsibilities order, no longer has any such responsibilities or rights.”.

(4) In section 94 (proceedings) of the Act—

(a) for the purposes of subsection (1) the reference to any person who is affected by the order includes any person in whom were vested any parental responsibilities or parental rights which, by virtue of the making of a parental responsibilities order in respect of the child, vest in a local authority;

(b) subsection (3) applies as if for paragraph (e) there were substituted—

“(e) any person in whom were vested any parental responsibilities or parental rights which, by virtue of the making of a parental responsibilities order in respect of the child, vest in a local authority.”.

(5) For the purposes of section 98(2)(b) of the Act the reference to any other person affected by the order includes any person in whom were vested any parental responsibilities or parental rights which, by virtue of the making of a parental responsibilities order in respect of the child, vest in a local authority.