

2009 No. 429

CHILDREN AND YOUNG PERSONS

**The Adoption and Children (Scotland) Act 2007 (Modification
of Subordinate Legislation) Order 2009**

Made - - - - - *25th November 2009*

Laid before the Scottish Parliament *26th November 2009*

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by section 116 of the Adoption and Children (Scotland) Act 2007(a), and all other powers enabling them to do so.

Citation and commencement

1.—(1) This Order may be cited as the Adoption and Children (Scotland) Act 2007 (Modification of Subordinate Legislation) Order 2009 and comes into force, with the exception of article 3, on 18th December 2009.

(2) Article 3 comes into force on 28th September 2010.

Modification of enactments

2. The Schedule to this Order, which makes modification of certain enactments, has effect.

Modification to the Civil Legal Aid (Scotland) Regulations 2002: freeing orders

3. In regulation 18(2)(o) (legal aid in matters of special urgency) of the Civil Legal Aid (Scotland) Regulations 2002(b) omit “a freeing order for adoption or”.

ADAM INGRAM

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
25th November 2009

(a) 2007 asp 4.

(b) S.S.I. 2002/494, which was relevantly amended by S.S.I. 2005/112.

SCHEDULE

Article 2

MODIFICATION OF SUBORDINATE LEGISLATION

The Children (Reciprocal Enforcement of Prescribed Orders etc. (England and Wales and Northern Ireland)) (Scotland) Regulations 1996 (S.I. 1996/3267)

1.—(1) The Children (Reciprocal Enforcement of Prescribed Orders etc. (England and Wales and Northern Ireland)) (Scotland) Regulations 1996(a) are amended as follows.

(2) In regulation 1(2) (interpretation)—

- (a) in the definition of “corresponding England and Wales Order”, for “parental responsibilities order” substitute “permanence order”;
- (b) in the definition of “corresponding Northern Ireland Order”, for “parental responsibilities order” substitute “permanence order”; and
- (c) after the definition of “corresponding Northern Ireland Order” insert—
 - ““permanence order” means a permanence order granted under section 80 of the Adoption and Children (Scotland) Act 2007 which contains the following provisions:
 - (a) the mandatory provisions mentioned in section 81 of that Act vesting in the local authority;
 - (b) the ancillary provisions mentioned in section 82(1)(a), (c)(i) and (d)(i) of that Act;”.

(3) In regulations 4 (transfer of supervision requirements etc from Scotland to England and Wales) and 5 (transfer of supervision requirements etc. from Scotland to Northern Ireland) in paragraph (4) of each for “parental responsibilities order” substitute “permanence order”.

Children’s Hearings (Scotland) Rules 1996 (S.I. 1996/3261)

2.—(1) The Children’s Hearings (Scotland) Rules 1996(b) are amended as follows.

(2) In rule 22—

- (a) in paragraph (1) (conduct of children’s hearing on reference for advice by court, the local authority or approved adoption society) for “section 22A(2) of the 1978 Act (advice in relation to placing a child for adoption)” substitute “section 106(2) of the Adoption and Children (Scotland) Act 2007.”;
- (b) in paragraph (8) for “section 16 or 18 of the 1978 Act” substitute “section 18 of the 1978 Act or section 31 of the Adoption and Children (Scotland) Act 2007.”.

(3) In the Schedule, in Form 24 (form of report by children’s hearing of advice under section 73(13) of the Act providing advice for consideration by sheriff in his determination of decision of adoption agency) for “[proposed application under section 86” to “proposed placing for adoption]” substitute “[proposed application under section 80 of the Adoption and Children (Scotland) Act 2007] [proposed application under section 29 or 30 of the Adoption and Children (Scotland) Act 2007]”.

The Regulation of Care (Applications and Provision of Advice) (Scotland) Order 2002 (S.S.I. 2002/113)

3. In paragraph 20(a)(vi) of the Schedule to the Regulation of Care (Applications and Provision of Advice) (Scotland) Order 2002(c) after “1978” insert “or has registered as a provider of an adoption service under Part 1 of the Act”.

(a) S.I. 1996/3267.

(b) S.I. 1996/3261.

(c) S.S.I. 2002/113 the relevant amending instrument is S.S.I. 2003/151.

The Civil Legal Aid (Scotland) Regulations 2002 (S.S.I. 2002/494)

4. In regulation 18(2)(o) (legal aid in matters of special urgency) of the Civil Legal Aid (Scotland) Regulations 2002 for “parental responsibilities order under section 86 of the 1995 Act” substitute “permanence order under section 80 of the Adoption and Children (Scotland) Act 2007”.

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (S.S.I. 2003/231)

5. In paragraph 2 of Schedule 3 (exclusion of section 4(2)(a) and (b) of the Act) of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(a) in the definition of “adopt” from “section 12” to the end, substitute “the Adoption and Children (Scotland) Act 2007 or the Adoptions with a Foreign Element (Scotland) Regulations 2009.”.

Police Act 1997 (Criminal Records) (Scotland) Regulations 2006 (S.S.I. 2006/96)

6.—(1) The Police Act 1997 (Criminal Records) (Scotland) Regulations 2006(b) are amended as follows.

(2) In regulation 11 (enhanced criminal record certificates – matters)—

(a) In paragraph (o) omit from “(this paragraph” to the end; and

(b) After paragraph (p) insert—

“(q) in paragraph (o) “adoption agency” means—

- (i) an adoption service provided as mentioned in section 2(11)(b) of the Regulation of Care (Scotland) Act 2001 and registered under Part 1 of that Act;
- (ii) an adoption agency within the meaning of section 2(1) of the Adoption and Children Act 2002; or
- (iii) an adoption agency within the meaning of Article 3 of the Adoption (Northern Ireland) Order 1987.”.

(3) In regulation 12(7) for “regulation 7 of the Adoption Agencies (Scotland) Regulations 1996” substitute “regulation 3 of the Adoption Agencies (Scotland) Regulations 2009”.

St Mary’s Music School (Aided Places) (Scotland) Regulations 2001 (S.S.I. 2001/223)

7. In paragraph 4 of the appendix to Schedule 1 (computation of income) of the St Mary’s Music School (Aided Places) (Scotland) Regulations 2001(c) after “section 51(5) of the Adoption (Scotland) Act 1978” insert “or in accordance with section 71 of the Adoption and Children (Scotland) Act 2007”.

(a) S.S.I. 2003/231 which was relevantly amended by S.S.I. 2007/75.

(b) S.S.I. 2006/96 which was relevantly amended by S.S.I. 2008/6.

(c) S.S.I. 2001/223 to which there are amendments not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications to subordinate legislation. These modifications are consequential and supplemental to the Adoption and Children (Scotland) Act 2007 (asp 4).

The modifications set out in the Schedule to the Order, will have effect from 18th December 2009 and those set out in Article 3 will have effect from 28th September 2010.

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