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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 173**

**CHILDREN AND YOUNG PERSONS**

**The Adoptions with a Foreign Element  
(Scotland) Amendment Regulations 2010**

<i>Made</i>	- - - -	<i>29th April 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>30th April 2010</i>
<i>Coming into force</i>	- -	<i>24th May 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 1(1) to (3) and (5) of the Adoption (Intercountry Aspects) Act 1999<sup>(1)</sup> and section 8 of the Adoption and Children (Scotland) Act 2007<sup>(2)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Adoptions with a Foreign Element (Scotland) Amendment Regulations 2010 and come into force on 24th May 2010.

**Amendment of the Adoptions with a Foreign Element (Scotland) Regulations 2009**

2.—(1) The Adoptions with a Foreign Element (Scotland) Regulations 2009<sup>(3)</sup> are amended as follows.

(2) In regulation 21 (procedure following receipt of Article 16 Information)—

(a) for paragraph (3) substitute—

“(3) Where—

(a) the procedure in paragraph (2) has been followed; and

(b) the prospective adopters have confirmed in writing to the adoption agency that they wish to proceed to adopt the child,

the adoption agency must notify the Central Authority in writing that the requirements specified in sub-paragraphs (a) and (b) have been satisfied and, at the same time, confirm that it is satisfied that there are no impediments to the adoption proceeding.”;

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(1) 1999 c.18. The functions of the Secretary of State transferred to the Scottish Ministers by virtue of section 16(2) of the Adoption (Intercountry Aspects) Act 1999 and section 53 of the Scotland Act 1998 (c.46). Section 1 was amended by the Adoption and Children (Scotland) Act 2007 (asp 4), Schedule 2, paragraph 10.

(2) 2007 asp 4.

(3) S.S.I. 2009/182.

(b) after paragraph (5) insert—

“(5A) Where the prospective adopters visit the child in the State of origin they must, no later than 3 working days after visiting the child—

(a) notify the adoption agency—

(i) that they have visited the child; and

(ii) as to whether they wish to proceed to adopt the child; and

(b) provide the adoption agency with any additional reports and information received on or after that visit.

(5B) Where the adoption agency receives notice under paragraph (5A) the agency must notify the Central Authority in writing—

(a) that the prospective adopters have visited the child; and

(b) as to whether the prospective adopters wish to proceed to adopt the child.”.

(3) In regulation 22(3) (procedure where proposed adoption not to proceed) for “the child is placed with the prospective adopters” substitute “any Convention adoption is made in the State of origin or, if none is made, before the child’s entry into the United Kingdom”.

St Andrew’s House,Edinburgh  
29th April 2010

*ADAM INGRAM*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to the Adoptions with a Foreign Element (Scotland) Regulations 2009 (“the principal Regulations”) to remove the requirement that prospective adopters, in adoptions proceeding under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (“the Convention”), visit the child in their State of origin before an agreement under Article 17(c) of the Convention is made. They also make provision for notification requirements when the prospective adopters have visited the child by inserting new paragraphs (5A) and (5B) in regulation 21 of the principal Regulations. Regulation 2(3) makes a consequential amendment to regulation 22 of the principal Regulations.

These amendments apply to adoptions in Scotland where the United Kingdom is the receiving State (where a child is brought from outwith the British Islands to the United Kingdom for adoption by a British resident in accordance with the Convention).