SCOTTISH STATUTORY INSTRUMENTS

2013 No. 99

The Children's Hearings (Scotland) Act 2011 (Transfer of Children to Scotland – Effect of Orders made in England and Wales or Northern Ireland) Regulations 2013

Citation and commencement

1. These Regulations may be cited as the Children's Hearings (Scotland) Act 2011 (Transfer of Children to Scotland – Effect of Orders made in England and Wales or Northern Ireland) Regulations 2013 and come into force on the same day as section 190 (effect of orders made outwith Scotland) of the Children's Hearings (Scotland) Act 2011.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Children's Hearings (Scotland) Act 2011;

"the 1989 Act" means the Children Act 1989(**1**);

"the 1995 Order" means the Children (Northern Ireland) Order 1995(**2**);

"local authority", in relation to England and Wales, has the meaning given by section 105(1)(**3**) of the 1989 Act in respect of England and Wales.

(2) Any reference in these Regulations to anything done in writing includes a reference to anything done in electronic form which is—

(a) sent by electronic means; and

(b) capable of being reproduced in legible form.

Effect of care orders made in England and Wales

3.—(1) This regulation applies where—

(a) a child is subject to a care order made under section 31(1)(a) of the 1989 Act;

(b) the court has given approval under paragraph 19(1) of Schedule 2 to the 1989 Act to the local authority ("the home local authority") to arrange, or assist in arranging, for the child to live in Scotland;

(c) the local authority for the area in which the child is to reside, or has moved to, in Scotland ("the receiving local authority") has, through the Principal Reporter, notified the court in writing that it agrees to take over the care of the child; and

(d) the home local authority has notified the court that it agrees to the receiving local authority taking over the care of the child.

(2) The care order has effect as if it were a compulsory supervision order.

(**1**) 1989 c.41.
(**2**) S.I.1995/755 (N.I.2).
(**3**) The definition of "local authority" was amended by paragraph 13 of Schedule 10 and by Schedule 18 to the Local Government (Wales) Act 1994 (c.19). There are other amendments to section 105(1) which are not relevant to these Regulations.

(3) In this regulation "court" means the court which has given the approval in terms of paragraph 19(1) of Schedule 2 to the 1989 Act.

Effect of supervision orders and education supervision orders made in England and Wales

4.—(1) This regulation applies where—

(a) a child is subject to a supervision order made under section 31(1)(b)(**4**) of the 1989 Act, or an education supervision order made under section 36(1)(**5**) of that Act;

(b) the local authority designated under section 31(1)(b) of the 1989 Act, or the local authority designated under section 36(1) of that Act, has notified the local authority for the area in which the child is to reside in Scotland ("the receiving local authority") of the proposed transfer of the child to Scotland; and

(c) the receiving local authority has consented to the proposed transfer in writing.

(2) The supervision order, or education supervision order, has effect as if it were a compulsory supervision order.

Effect of care orders made in Northern Ireland

5.—(1) This regulation applies where—

(a) a child is subject to a care order made under article 50(1)(a) of the 1995 Order;

(b) the court has given approval under article 33(1) of the 1995 Order to the authority to arrange, or assist in arranging, for the child to live in Scotland;

(c) the local authority for the area in which the child is to reside, or has moved to, in Scotland ("the receiving local authority") has, through the Principal Reporter, notified the court in writing that it agrees to take over the care of the child; and

(d) the authority has notified the court that it agrees to the receiving local authority taking over the care of the child.

(2) The care order has effect as it if were a compulsory supervision order.

(3) In this regulation—

"court" means the court which has given the approval in terms of article 33(1) of the 1995 Order; and

"authority" means, in relation to Northern Ireland, a Health and Social Care trust established by article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991(**6**) and renamed by section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009(**7**).

Effect of supervision orders or education supervision orders made in Northern Ireland

6.—(1) This regulation applies where—

(a) a child is subject to a supervision order made under article 50(1)(b) of the 1995 Order, or an education supervision order made under article 55(1) of that Order;

(b) the authority designated under article 50(1)(b) of the 1995 Order, or the education and library board designated under article 55(1) of that Order, has notified the local authority

(**4**) Section 31(1)(b) was amended by Schedule 8 to the Criminal Justice and Court Services Act 2000 (c.43).
(**5**) Section 36(1) was amended by S.I.2010/1158.
(**6**) S.I. 1991/194 (N.I. 1). Section 10(1) was relevantly amended by section 43(1) of the Health and Personal Social Services Act (Northern Ireland) 2001 (c.3).
(**7**) 2009 c.1 (N.I.).

for the area in which the child is to reside in Scotland ("the receiving local authority") of the proposed transfer of the child to Scotland; and

(c) the receiving local authority has consented to the proposed transfer in writing.

(2) The supervision order, or education supervision order, has effect as if it were a compulsory supervision order.

(3) In this regulation—

"education and library board" means an education and library board established under article 3 of the Education and Libraries (Northern Ireland) Order 1986(**8**);

"authority", in relation to Northern Ireland, has the meaning given in regulation 5(3).

Application of the Act to orders which have converted under regulation 3, 4, 5 or 6

7.—(1) This regulation applies where an order made in England and Wales or Northern Ireland has effect as if it were a compulsory supervision order by virtue of regulation 3, 4, 5 or 6.

(2) For the purposes of the application of the Act, the implementation authority is—

(a) where regulation 3 applies, the receiving local authority referred to in regulation 3(1)(c);

(b) where regulation 4 applies, the receiving local authority referred to in regulation 4(1)(b);

(c) where regulation 5 applies the receiving local authority referred to in regulation 5(1)(c); and

(d) where regulation 6 applies the receiving local authority referred to in regulation 6(1)(b).

(3) Section 131(2) of the Act is modified and applies as if there were inserted at the end—

"(f) the authority becomes aware that the child is subject to a compulsory supervision order by virtue of regulations made under section 190 of this Act.".

(4) Section 137 of the Act is modified and applies as if there were inserted after subsection (3)—

"(3A) If the review is initiated under section 131(2)(f) the children's hearing must be arranged to take place no later than 20 working days after notice is given to the Principal Reporter under section 131(1).".

St Andrew's House,
Edinburgh
14th March 2013

AILEEN CAMPBELL
Authorised to sign by the Scottish Ministers

(**8**) S.I. 1986/594 (N.I.3), to which there are amendments not relevant to these Regulations.