

# **ADOPTION AND CHILDREN (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 3**

#### **Miscellaneous**

#### ***Section 110 - Allowances for care of certain children: regulations***

357. Subsections (1) and (2) give the Scottish Ministers power to make regulations making provision about payments by a local authority in respect of a child if (a) he or she is placed by the local authority under section 26(1)(a) of the Children (Scotland) Act 1995 or (b) the child is required by virtue of section 70(3)(a) of that Act to reside with a person other than a parent of the child or, (c) were the child not residing with a relative, the child would be a ‘looked after’ child under section 25(1) of the 1995 Act.
358. By virtue of subsection (3) these regulations may, in particular, specify descriptions of persons to whom payments may be made; specify circumstances in which payments may be made; and specify rates of payments, including minimum required or recommended rates in specified circumstances and a requirement for local authorities who do not comply with the recommended rates to publish their reasons for not doing so.
359. By virtue of subsection (4) the child does not cease to be a child placed under section 26(1)(a) of the 1995 Act simply because a permanence order gives parental responsibilities or parental rights to a member of the family with whom the child is placed. Under subsection (5) a child does not fall within subsection (2)(c) if the relative is a guardian of the child (parents are already excluded by not being covered by the definition of ‘relative’ in section 119(1)). Subsection (6) provides that it is immaterial for the purposes of paragraph (c) of subsection (2) if the relative has any parental responsibilities or rights in relation to the child.