Adoption and Children (Scotland) Act 2007

2007 asp 4

PART 3 S

MISCELLANEOUS

Provisions applicable to adoption orders and permanence orders

105 Notification of proposed application for order S

(1) Subsection (2) applies where—

(a) a local authority—

(i) proposes to make an application for a permanence order in respect of a child, or

(ii) becomes aware that an application for an adoption order in respect of a child in its area has been, or is to be, made,

(b) the father of the child is not married to the mother of the child on the relevant date,

(c) the father, never having had parental responsibilities or parental rights in relation to the child, does not have such responsibilities or rights on the relevant date, and

(d) the authority—

(i) knows the identity and whereabouts of the father, or

(ii) can, by taking such reasonable and practicable steps as are appropriate in the circumstances of the case, ascertain that information.

(2) The local authority must, on or after the relevant date—

(a) give notice to the father that—

(i) it proposes to apply for a permanence order,

(ii) an application for an adoption order has been made, or

(iii) an application for an adoption order is to be made,

as the case may be, and

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(b) provide the father with prescribed information relating to the processes for applying for the order in question.

(3) Where a local authority is required to give notice under subsection (2)(a)(i), it must give the notice at least 4 weeks before the application for the permanence order is made.

(4) Where a local authority is required to give notice under sub-paragraph (ii) or (iii) of subsection (2)(a), it must give the notice as soon as is reasonably practicable after it becomes aware that the application for an adoption order has been or, as the case may be, is to be made.

(5) In this section—

(a) "relevant date" means—

(i) the date on which the local authority determines it will make the application mentioned in sub-paragraph (i) of subsection (1)(a), or

(ii) the date on which the authority becomes aware of the application mentioned in sub-paragraph (ii) of that subsection,

as the case may be,

(b) "prescribed" means prescribed by regulations made by the Scottish Ministers.

Commencement Information

I1 S. 105 in force at 28.9.2009 by S.S.I. 2009/267, **arts. 1(2)**, 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

106 [[F1]Child subject to compulsory supervision order: duty to refer to Principal Reporter] S

(1) Subsection (2) applies where—

(a) a child is subject to a **[**[F2]compulsory supervision order**]**,

(b) a registered adoption service is satisfied that the best interests of the child would be served by placing the child for adoption, and

(c) it intends to place the child for adoption.

(2) The registered adoption service must refer the child's case to the Principal Reporter.

(3) The Scottish Ministers may make regulations specifying by reference to the occurrence of an event or events described in the regulations the period of time during which a referral under this section is to be made.

[F3](4) . . . . . .

Textual Amendments

F1 S. 106 title substituted (24.6.2013) by The Childrenâ€™s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 17(11)**

F2 Words in s. 106(1)(a) substituted (24.6.2013) by The Childrenâ€™s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 1 para. 17(11)**

F3 S. 106(4) repealed (24.6.2013) by The Childrenâ€™s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **Sch. 2**

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Commencement Information

I2 S. 106(1)(2) in force at 28.9.2009 by S.S.I. 2009/267, **arts. 1(2)**, 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

I3 S. 106(3) in force at 20.4.2009 for specified purposes by S.S.I. 2009/147, art. 2, **Sch.**

I4 S. 106(3) in force at 28.9.2009 in so far as not already in force by S.S.I. 2009/267, **arts. 1(2)**, 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

107 Making of adoption order no longer to be bar to making of contact order S

In section 11 of the 1995 Act (court orders relating to parental responsibilities etc.), in subsection (3)—

(a) in paragraph (a), sub-paragraph (iii) is repealed,

(b) after that paragraph insert—

"(aa) that application for a contact order is made with the leave of the court by a person whose parental responsibilities or parental rights in relation to the child were extinguished on the making of an adoption order;

(ab) that application for an order under subsection (1) above (other than a contact order) is made by a person who has had, but for a reason other than is mentioned in subsection (4) below, no longer has, parental responsibilities or parental rights in relation to the child;", and

(c) in paragraph (b), for "such application" substitute " application for an order under subsection (1) above ".

Commencement Information

I5 S. 107 in force at 28.9.2009 by S.S.I. 2009/267, **arts. 1(2)**, 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

108 Rules: appointment of curators ad litem and reporting officers S

(1) In the case of an application for a relevant order in relation to a child, rules of court must provide for the appointment, in such cases as are prescribed by the rules—

(a) of a person to act as curator *ad litem* of the child on the hearing of the application, with the duty of safeguarding the interests of the child in such manner as may be so prescribed,

(b) of a person to act as reporting officer for the purpose of witnessing agreements to adoption and performing such other duties as may be so prescribed.

(2) Rules may in particular make provision—

(a) enabling the reporting officer to be appointed before the application is made,

(b) enabling the court to appoint the same person to be curator *ad litem* and reporting officer.

(3) Rules may not make provision for—

(a) the appointment of a person who is employed by an adoption agency which has placed a child for adoption to act as curator *ad litem* or reporting officer for the purposes of an application for an adoption order in respect of the child,

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(b) the appointment of a person who is employed by a local authority which is making (or has made) an application for a permanence order to act as curator *ad litem* or reporting officer for the purposes of the application.

(4) A relevant order means—

(a) an adoption order,

(b) a permanence order, or

(c) an order under section 59.

Modifications etc. (not altering text)

C1 S. 108(1)(2) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 4, **Sch. 3**

Commencement Information

I6 S. 108 in force at 20.4.2009 for specified purposes by S.S.I. 2009/147, art. 2, **Sch.**

I7 S. 108 in force at 28.9.2009 in so far as not already in force by S.S.I. 2009/267, **arts. 1(2)**, 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

109 Proceedings to be in private S

(1) Any proceedings before the court relating to applications under any of the provisions mentioned in subsection (2) must be heard and determined in private unless the court otherwise directs.

(2) Those provisions are—

(a) section 24,

(b) section 29,

(c) section 30,

(d) section 59,

(e) section 80,

(f) section 92,

(g) section 93, [F4]...

(ga) **[**[F5] section 98, and **]**

(h) section 99.

Textual Amendments

F4 Word in s. 109(2)(g) repealed (27.1.2010) by Adoption and Children (Scotland) Act 2007 (Modification of Enactments) Order 2010 (S.S.I. 2010/21), art. 1, **Sch. para. 8(5)(a)**

F5 S. 109(2)(ga) inserted (27.1.2010) by Adoption and Children (Scotland) Act 2007 (Modification of Enactments) Order 2010 (S.S.I. 2010/21), art. 1, **Sch. para. 8(5)(b)**

Modifications etc. (not altering text)

C2 S. 109(1) applied (with modifications) (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), regs. 1(1), 4, **Sch. 3**

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Commencement Information

I8 S. 109 in force at 28.9.2009 by S.S.I. 2009/267, **arts. 1(2)**, 2 (with arts. 3-21) (as amended (7.5.2012) by S.S.I. 2012/99, art. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(3A) inserted by 2020 asp 16 s. 30(5)
- s. 14(4A)-(4C) inserted by 2020 asp 16 s. 2(2)(c)
- s. 84(5A)(5B) inserted by 2020 asp 16 s. 2(3)(c)