

SCHEDULE 3

Regulation 4

Application of the Adoption and Children (Scotland) Act 2007 Provisions with Modifications to Parental Orders and Applications for such Orders

<i>Column 1</i>	<i>Column 2</i>
Provisions of the 2007 Act	Modifications
Section 14(1) to (4) and (8) (considerations applying to the exercise of powers)	<ul style="list-style-type: none"> <li>(i) As if the words “or adoption agency” were omitted on each occasion they appear;</li> <li>(ii) as if in section 14(1) after “to (4)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li> <li>(iii) as if in section 14(1) for “the adoption of a child” there were substituted “an application for a parental order”; and</li> <li>(iv) as if in section 14(4)(d) for “an adoption order” there were substituted “a parental order”.</li> </ul>
Section 22 (restrictions on removal: application for adoption order pending)	<ul style="list-style-type: none"> <li>(i) As if for the words “prospective adopters” on each occasion they appear there were substituted “applicants”;</li> <li>(ii) as if in section 22(1) after “Subsection (2)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li> <li>(iii) as if in section 22(1) for “an adoption order” there were substituted “a parental order”;</li> <li>(iv) as if section 22(1)(b) were omitted;</li> <li>(v) as if in section 22(2) after “subsection (3)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li> <li>(vi) as if in section 22(3) after “This subsection” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and</li> <li>(vii) as if in section 22(4) after “this section” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”.</li> </ul>

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Section 24 (return of child removed in breach of certain provisions)	<ul style="list-style-type: none"> <li>(i) As if in section 24(3)(a) for “an adoption order or a permanence order” there were substituted “a parental order”;</li> <li>(ii) as if in section 24(4)(a) for “sections 20, 21, 22 and 23” there were substituted “section 22 as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li> <li>(iii) as if in section 24(4)(b) for “sections 30, 34, 35 and 36 of the 2002 Act” there were substituted “section 36 of the 2002 Act as applied with modifications by regulation 2 of and Schedule 1 to the Parental Order Regulations”; and</li> <li>(iv) as if in section 24(4)(c) for “Articles 28 and 29 of the Northern Ireland Order” there were substituted “Article 28 of the Northern Ireland Order as applied with modifications by regulation 3 of and Schedule 2 to the Parental Order Regulations”.</li> </ul>
Section 27(1) (contravention of sections 30 to 36 of 2002 Act)	As if in section 27(1) for “any of the provisions of the 2002 Act mentioned in subsection (2)” there were substituted “section 36(1) (removal of a child in non-agency case) of the 2002 Act as applied with modifications by regulation 2 of and Schedule 1 to the Parental Order Regulations”.
Section 28 (adoption orders)	<ul style="list-style-type: none"> <li>(i) Except as provided in paragraph (ii) as if for the words “an adoption order” on each occasion they appear there were substituted “a parental order”;</li> <li>(ii) as if in section 28(1) for “An adoption order” there were substituted “Without prejudice to section 54(1) of the 2008 Act (which empowers the court to make an order providing for a child to be treated in law as the child of the applicants), a parental order”;</li> <li>(iii) as if in section 28(1) the words “on an application under section 29 or 30” were omitted;</li> <li>(iv) as if in section 28(1) for “adopters or adopter” there were substituted “applicants”; and</li> <li>(v) as if in section 28(6) for “adopted” there were substituted “the subject of a parental order”.</li> </ul>

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Section 33(1) and (2) (restrictions on making orders)	(i) As if in section 33(1) for “an adoption order” there were substituted “a parental order”; and (ii) as if in section 33(1) for “falling within subsection (3)” there were substituted “for a parental order”.
Section 35 (effect of order on existing rights etc.)	(i) As if for the words “an adoption order” on each occasion they appear there were substituted “a parental order”; (ii) as if in section 35(1) the words from “Where an adoption” to “section 30,” were omitted; (iii) as if in section 35(1) for “the order” there were substituted “a parental order”; (iv) as if in section 35(1)(a) for “the other member of the relevant couple” there were substituted “either of the applicants”; (v) as if in section 35(1)(b) for “other member” there were substituted “applicant”; and (vi) as if in section 35(2)(b) after “subsection (3)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”.
Section 40(1) to (3), (5), (6) and (10) (status conferred by adoption)	(i) As if for section 40(1) there were substituted “(1) A person who is the subject of a parental order is to be treated in law as if born as the child of the persons who obtained the order”; (ii) as if for section 40(2) there were substituted “(2) A person who is the subject of a parental order is to be treated as the child of the persons who obtained the order.”; (iii) as if for section 40(3) there were substituted “(3) A person who is the subject of a parental order is to be treated in law as not being the child of any person other than the persons who obtained the order.”; (iv) as if in section 40(5) for “Subsections (3) and (4) do” there were substituted “Subsection (3) as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations does”;

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Section 41 (miscellaneous enactments)	<ul style="list-style-type: none"> <li>(v) as if for section 40(6) there were substituted “(6) This section as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations is without prejudice to section 54(1) of the 2008 Act (which empowers the court to make an order providing for a child to be treated in law as the child of the applicants) and has effect from the date on which the court makes the parental order.”;</li> <li>(vi) as if in section 40(10) after “Chapter” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and</li> <li>(vii) as if in section 40(10) for the word “adoption” on each occasion it appears there were substituted “making of the parental order”.</li> </ul> <ul style="list-style-type: none"> <li>(i) As if for section 41(1) there were substituted           <ul style="list-style-type: none"> <li>“(1) Notwithstanding the effect of making a parental order but without prejudice to section 40(1) as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations, the child who is the subject of that parental order shall be treated for the purposes of determining the forbidden degrees of consanguinity and affinity in respect of the law relating to marriage or to the eligibility of persons to register as civil partners of each other and in respect of the crime incest, as if–               <ul style="list-style-type: none"> <li>(a) that child were the child of the persons who obtained the order, and</li> <li>(b) that child were also the child of any other person who, prior to the making of the parental order, was the mother or father.”;</li> </ul> </li> </ul> </li> <li>(ii) as if in section 41(2) for “an adoption order” there were substituted “a parental order”;</li> <li>(iii) as if in section 41(2) for “adopter” there were substituted “persons who obtained the order”; and</li> </ul>

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	(iv) as if in section 41(2) for “adopted” there were substituted “who is subject to the order”.
Section 42 (pensions)	(i) As if after “Section 40” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and (ii) as if for “person’s adoption” there were substituted “making of a parental order in respect of that person”.
Section 43(1) to (3) (insurance)	(i) As if for the words “adoptive parents” on each occasion they appear there were substituted “persons who obtained the parental order”; (ii) as if in section 43(1) after “Subsections (2) and (3)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; (iii) as if in section 43(1) for “is adopted” there were substituted “becomes the subject of a parental order”; and (iv) as if in section 43(2) for “adoption” there were substituted “parental order”.
Section 53 (Adopted Children Register and index)	(i) As if for the words “Adopted Children Register” on each occasion they appear there were substituted “Parental Order Register”; (ii) as if in section 53(2)(a) for “adoption orders” there were substituted “parental orders”; (iii) as if in section 53(2)(b) after “schedule 1” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; (iv) as if in section 53(4) after “Schedule 1” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and (v) as if in section 53(4) for “adoptions” and for “adoption orders” there were substituted “parental orders”.
Section 54 (searches and extracts)	As if for the words “Adopted Children Register” on each occasion they appear there were substituted “Parental Order Register”.
Section 55(1) to (5) (connections between the register and birth records)	(i) As if in section 55(1) after “schedule 1” there were inserted “as applied

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	<p>with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</p> <p>(ii) as if in section 55(1) for “marked “Adopted”” there were substituted “marked “Parental Order””;</p> <p>(iii) as if in section 55(1) for “Adopted Children Register” there were substituted “Parental Order Register”;</p> <p>(iv) as if in section 55(2) after “subsection (1)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</p> <p>(v) as if in section 55(3) for “subsection (4)” there were substituted “subsections (4) and (5) as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</p> <p>(vi) as if in section 55(4)(a) after “sheriff,” there were inserted “or”;</p> <p>(vii) as if for section 55(4)(b) there were substituted “(b) to a person who is the subject of a parental order who is aged 16 or over and to whom the information relates (“the person”).”;</p> <p>(viii) as if section 55(4)(c) were omitted; and</p> <p>(ix) as if for section 55(5) there were substituted</p> <p>“(5) Before the Registrar General discloses information to the person in accordance with subsection (4)(b), as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations, the person must-</p> <p style="padding-left: 40px;">(a) be informed about the availability of any counselling services providing counselling in relation to the implications of compliance with the request, and</p> <p style="padding-left: 40px;">(b) be given a suitable opportunity to receive counselling.”.</p>
Section 56 (admissibility of extracts as evidence)	<p>(i) As if for the words “Adopted Children Register” on each occasion they appear there were substituted “Parental Order Register”;</p> <p>(ii) as if in section 56(1) after “section 54(2) (b)” there were inserted “as applied with modifications by regulation 4 of</p>

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	and Schedule 3 to the Parental Order Regulations”;
	(iii) as if in section 56(1) for “adoption” there were substituted “parental order”; and
	(iv) as if in section 56(2) for “adopted person” there were substituted “person who is subject to the parental order”.
Section 57 (interpretation of chapter 5)	(i) As if in section 57(1) for “this Chapter” there were substituted “sections 53 to 57 and schedule 1, as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations,”; and
	(ii) as if in section 57(2) after “or schedule 1” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”.
Section 58(1), (2), (6) and (10) (restriction on bringing children into the United Kingdom)	(i) As if in section 58(1)(a) for “adoption” there were substituted “applying for a parental order”;
	(ii) as if section 58(1)(b) were omitted;
	(iii) as if in section 58(2) after “subsection (1)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;
	(iv) as if in section 58(2) for the words “adoption, or a child adopted,” on each occasion they appear there were substituted “applying for a parental order”;
	(v) as if in section 58(10) after “this section” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and
	(vi) as if in section 58(10) for “Scottish Ministers” there were substituted “Secretary of State”.
Section 77(1) (effect of certain orders made in England and Wales)	As if for section 77(1) there were substituted “(1) A parental order made in England and Wales has the same effect as section 46(1) of the 2002 Act as applied with modifications by regulation 2 of and Schedule 1 to the Parental Order Regulations in Scotland as it has in England and Wales.”.
Section 108(1) and (2) (Rules: appointment of curators <i>ad litem</i> and reporting officers)	(i) As if in section 108(1) for “In the case of an application for a relevant order in

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	<p>relation to a child” there were substituted “For the purpose of any application for a parental order”;</p> <p>(ii) as if in section 108(1)(b) for “adoption” there were substituted “the parental order”; and</p> <p>(iii) as if in section 108(2)(b) after “reporting officer” there were inserted “but that person shall not be any person or employee of any person holding a licence granted under section 11 of the Human Fertilisation and Embryology Act 1990, as amended by section 11 of the 2008 Act”.</p>
Section 109(1) (proceedings to be in private)	As if in section 109(1) for “relating to applications under any of the provisions mentioned in subsection (2)” there were substituted “in relation to a parental order or under section 24 (return of a child removed in breach of certain provisions) as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”.
Section 111 (evidence of consent)	<p>(i) As if in section 111(1) for “If a document signifying any” there were substituted “Any agreement or”;</p> <p>(ii) as if in section 111(1) for “this Act” there were substituted “section 54 of the 2008 Act”; and</p> <p>(iii) as if in section 111(1) after “to be given” there were inserted “to the making of a parental order or application for an order may be given in writing and, if a document signifying agreement or consent”.</p>
Section 113 (admissibility of certain documents as evidence)	<p>(i) As if in section 113(a) after “2002 Act” there were inserted “as applied with modifications by regulation 2 of and Schedule 1 to the Parental Order Regulations”; and</p> <p>(ii) as if in section 113(b) after “Northern Ireland Order” there were inserted “as applied with modifications by regulation 3 of and Schedule 2 to the Parental Order Regulations”.</p>
Section 114(1) to (4) (rules of procedure)	(i) As if in section 114(1) after “this Act” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;

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	<ul style="list-style-type: none"><li>(ii) as if in section 114(1) after “matters of procedure” there were inserted “arising out of an application under section 54 of the 2008 Act”;</li><li>(iii) as if for section 114(2) there were substituted “(2) In the case of an application for a parental order, the rules must require any person mentioned in subsection (3), as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations, to be notified of the matters mentioned in subsection (4).”; and</li><li>(iv) as if for section 114(3) there were substituted “(3) Those persons are every person who can be found and whose consent to the making of the order is required under section 54(6) of the 2008 Act.”.</li></ul>
Section 117 (orders and regulations)	<ul style="list-style-type: none"><li>(i) As if for the words “Scottish Ministers” on each occasion they appear there were substituted “Secretary of State”;</li><li>(ii) as if after the words “this Act” on each occasion they appear there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li><li>(iii) as if in section 117(4) after “subsection (5),” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li><li>(iv) as if in section 117(4) “(other than an order under section 121)” were omitted and for “the Scottish Parliament” there were substituted “either House of Parliament”;</li><li>(v) as if for section 117(5) there were substituted “(5) A statutory instrument containing regulations made under paragraphs 1(1) or 7(4) and (11) of schedule 1 as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations is subject to annulment in pursuance of a resolution of the Scottish Parliament.”; and</li><li>(vi) as if in section 117(6) after “this section,” and after “section 57(1)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”.</li></ul>

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Section 118 (meaning of “appropriate court”)	<ul style="list-style-type: none"> <li>(i) As if in section 118(1) after “this Act” on each occasion they appear there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and</li> <li>(ii) as if in section 118(3)(a) there were substituted “(a) the application is for a parental order, and”.</li> </ul>
Section 119(1) (interpretation)	<ul style="list-style-type: none"> <li>(i) As if after “this Act,” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations,”;</li> <li>(ii) as if in the definition of “the 2002 Act” after “Adoption and Children Act 2002 (c.38)” there were inserted “as applied with modifications by regulation 2 of and Schedule 1 to the Parental Order Regulations”;</li> <li>(iii) as if after the definition of “the 2002 Act” there were inserted ““the 2008 Act” means the Human Fertilisation and Embryology Act 2008 (c.22),”;</li> <li>(iv) as if in the definition of “the Northern Ireland Order” after “(S.I. 1987/2203)” there were inserted “as applied with modifications by regulation 3 of and Schedule 2 to the Parental Order Regulations”;</li> <li>(v) as if for the definition of “applicant” there were substituted ““applicant” has the meaning given by section 54 of the 2008 Act”; and</li> <li>(vi) as if after the definition of “overseas adoption” there were inserted ““Parental Order Regulations” means the Human Fertilisation and Embryology (Parental Orders) Regulations 2010,”.</li> </ul>
Schedule 1, paragraphs 1, 2 and 4 (registration of adoption orders)	<ul style="list-style-type: none"> <li>(i) As if for the words “Adopted Children Register” on each occasion they appear there were substituted “Parental Order Register”;</li> <li>(ii) as if for the words “adoption order” on each occasion they appear there were substituted “parental order”;</li> <li>(iii) as if in paragraph 1(2) after “sub-paragraph (1)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;</li> </ul>

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	(iv) as if in paragraph 2(1) after “sub-paragraph (2)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;
	(v) as if in paragraph 2(1) paragraph (b) were omitted; and
	(vi) as if in paragraph 2(2) for “word “Adopted”” there were substituted “words “Parental Order””.
Schedule 1, paragraph 5 (registration of adoptions in other parts of the British Islands)	(i) As if for paragraph 5(1) there were substituted “(1) Sub-paragraph (2), as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations, applies where the Registrar General is notified by the authority maintaining a register of parental orders in a part of the British Islands outwith Scotland that an order has been made in that part in respect of a child”;
	(ii) as if in paragraph 5(2) for “Adopted Children Register” there were substituted “Parental Order Register” and for “word “Adopted”” there were substituted “words “Parental Order””;
	(iii) as if paragraph 5(3) were omitted;
	(iv) as if in paragraph 5(4) for “sub-paragraphs (2) and (3)” there were substituted “sub-paragraph (2) as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”;
	(v) as if in paragraph 5(5) after “sub-paragraph (4)” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and
	(vi) as if paragraph 5(6) were omitted.
Schedule 1, paragraph 7 (amendment of orders and rectification of registers)	(i) As if for the words “Adopted Children Register” on each occasion they appear there were substituted “Parental Order Register”;
	(ii) as if for the words “adopted person” on each occasion they appear there were substituted “person who is the subject of the parental order”;
	(iii) as if for the word “adopter” on each occasion it appears there were substituted “persons who obtained the order”;

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<p>Schedule 1, paragraph 8 (marking of entries on re-registration of birth)</p>	<ul style="list-style-type: none"> <li>(i) As if after “this Act” there were inserted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”; and</li> <li>(ii) as if in paragraph 8(a) for “or 6” there were substituted “as applied with modifications by regulation 4 of and Schedule 3 to the Parental Order Regulations”.</li> </ul>