
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 310

CHILDREN AND YOUNG PERSONS

The Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013

<i>Made</i>	- - - -	<i>31st October 2013</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>4th November 2013</i>
<i>Coming into force</i>	- -	<i>3rd January 2014</i>

The Scottish Ministers, make the following Regulations in exercise of the powers conferred by sections 67(1) and (4) and 117(2) and (3) of the Adoption and Children (Scotland) Act 2007⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Adoption (Recognition of Overseas Adoptions) (Scotland) Regulations 2013 and come into force on 3rd January 2014.

Interpretation

2. In these Regulations “law” does not include customary or common law.

Overseas adoptions

3. An adoption of a child is specified as an overseas adoption if—
- (a) it is an adoption effected under the law of a country or territory listed in the Schedule to these Regulations; and
 - (b) it is not a Convention adoption.

Evidence of an overseas adoption

4.—(1) The following documents may be provided as evidence that an overseas adoption has been effected—

(1) 2007 asp 4.

- (a) a certified copy of an entry made, in accordance with the law of the country or territory concerned, in a public register relating to the recording of adoptions and showing that the adoption has been effected; or
- (b) a certificate that the adoption has been effected, signed or purporting to be signed by a person authorised by the law of the country or territory concerned to sign such a certificate, or a certified copy of such a certificate.

(2) Where a document produced by virtue of paragraph (1) is not in English, the Registrar General may require the production of an English translation of the document before being satisfied of the matters specified in paragraph 6 of schedule 1 to the Adoption and Children (Scotland) Act 2007.

(3) Nothing in this regulation may be construed as precluding proof, in accordance with the Evidence (Foreign, Dominion and Colonial Documents) Act 1933⁽²⁾ or the Oaths and Evidence (Overseas Authorities and Countries) Act 1963⁽³⁾ or otherwise, that an overseas adoption has been effected.

Revocation and saving

5.—(1) Subject to paragraph (2), the following instruments are revoked—

- (a) The Adoption (Designation of Overseas Adoptions) Order 1973⁽⁴⁾; and
- (b) The Adoption (Designation of Overseas Adoptions) (Variation) (Scotland) Order 1995⁽⁵⁾.

(2) The revocation of the Adoption (Designation of Overseas Adoptions) Order 1973 does not affect any adoption designated as an overseas adoption by virtue of that Order prior to the coming into force of these Regulations.

St Andrew's House,
Edinburgh
31st October 2013

AILEEN CAMPBELL
Authorised to sign by the Scottish Ministers

(2) 1933 c.4.

(3) 1963 c.27.

(4) S.I. 1973/19. This Order and S.I. 1995/1614 were saved by S.S.I. 2009/267 and deemed to have been made under section 67 of the Adoption and Children (Scotland) Act 2007 (asp 4).

(5) S.I. 1995/1614.

SCHEDULE

Regulation 3(a)

Albania
Andorra
Armenia
Australia
Austria
Azerbaijan
Belarus
Belgium
Belize
Bolivia
Brazil
Bulgaria
Bulgaria
Burkina Faso
Burundi
Canada
Cape Verde
Chile
The People's Republic of China
Colombia
Costa Rica
Cuba
The Republic of Cyprus
Czech Republic
Denmark (including the Faroe Islands and Greenland)
Dominican Republic
Ecuador
El Salvador
Estonia
Fiji
Finland
France
Georgia
Germany
Greece
Guinea
Hungary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Iceland
India
The Republic of Ireland
Israel
Italy
Kazakhstan
Kenya
Latvia
Lesotho
Liechtenstein
Lithuania
Luxembourg
The Former Yugoslav Republic of Macedonia
Madagascar
Mali
Malta
Mauritius
Mexico
The Republic of Moldova
Monaco
Mongolia
Montenegro
The Netherlands (including the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba))
New Zealand
Norway
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Romania
Rwanda
San Marino
Senegal
Seychelles
Slovakia
Slovenia
South Africa

Spain
Sri Lanka
Swaziland
Sweden
Switzerland
Thailand
Togo
Turkey
The United States of America
Uruguay
Venezuela
Vietnam

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 3rd January 2014. They revoke and replace the Adoption (Designation of Overseas Adoptions) Order 1973 (“the 1973 Order”). The effect of these Regulations is to specify the countries and territories whose adoption orders are classed as ‘overseas adoptions’ in terms of section 67 of the Adoption and Children (Scotland) Act 2007 (“the 2007 Act”).

Regulation 2 provides that for the purposes of these Regulations ‘law’ does not include customary or common law.

Regulation 3 provides that an adoption, other than a Convention adoption, effected under the law of a country or territory listed in the Schedule to these Regulations is specified as an ‘overseas adoption’ for the purposes of the 2007 Act.

Regulation 4 provides that the documents that may be produced as evidence that an overseas adoption has been effected are documents purporting to be a certified copy of an entry made, in accordance with the law of the country or territory concerned, in the public register of adoptions; or a certificate that the adoption has been effected, signed or purporting to be signed by a person authorised by that country or territory to sign such a certificate.

Regulation 5 revokes the 1973 Order and an amending instrument but makes savings provision in respect of any adoption that was recognised as an overseas adoption under the 1973 Order before it was revoked. Any adoption that was recognised as an overseas adoption prior to the coming into force of these Regulations continues to be recognised as such.