
STATUTORY INSTRUMENTS

2004 No. 3203 (C.139)

CHILDREN AND YOUNG PERSONS

**The Adoption and Children Act 2002
(Commencement No. 7) Order 2004**

Made - - - - 6th December 2004

The Secretary of State for Education and Skills, in exercise of the powers conferred upon him by sections 140(7) and 148(1) and (6) of the Adoption and Children Act 2002⁽¹⁾, after consultation with the National Assembly for Wales⁽²⁾, other than as respects sections 2(6), 3, 4, 8 to 12, 27(3), 53, 54, 56 to 59, 60 to 65 and 98 of that Act, hereby makes the following Order—

Citation, interpretation and application

1.—(1) This Order may be cited as the Adoption and Children Act 2002 (Commencement No.7) Order 2004.

(2) In this Order “the Act” means the Adoption and Children Act 2002.

(3) Subject to paragraphs (4) and (5), this Order applies to England and Wales.

(4) The following provisions of article 2(1) do not apply to Wales –

(a) sub-paragraph (a) in so far as it relates to section 2(6) of the Act;

(b) sub-paragraphs (b) to (f);

(c) sub-paragraphs (h) to (j); and

(d) heads (i) to (iii) and (v) in sub-paragraph (m).

(5) Article 2(1)(j) in so far as it relates to -

(a) sections 63(2) to (5) and 65(2)(a) and (3) of the Act applies to Scotland; and

(b) sections 63(2) to (5) and 65(2)(b) and (3) of the Act applies to Northern Ireland.

Appointed Days

2.—(1) 7th December 2004 is the appointed day for the coming into force of the following provisions of the Act—

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- (1) **2002 c. 38.** The power is exercisable, as respects section 148(1) by the Secretary of State. The power is exercisable as respects section 148(6), by the appropriate Minister who is defined in section 144(1) in relation to England, Scotland or Northern Ireland, as the Secretary of State.
- (2) By virtue of section 148(2) the power under subsection (1) is only exercisable (other than an order bringing paragraph 53 of Schedule 3 into force) after the Secretary of State consults the National Assembly for Wales.

- (a) in section 2, subsections (1) to (5) and, in so far as they are not already in force, subsections (6) to (8) (basic definitions);
- (b) section 4(6) and (7) in so far as they are not already in force (adoption service);
- (c) section 9 (general power to regulate adoption etc. agencies);
- (d) section 10 (management etc. of agencies);
- (e) section 11 (fees);
- (f) section 27(3) (contact: supplementary);
- (g) section 45 (suitability of adopters);
- (h) section 53(1) to (3) (modification of 1989 Act in relation to adoption);
- (i) section 54 (disclosing information during adoption process);
- (j) sections 63 to 65 and 98 (disclosure of information in relation to a person's adoption pre- and post-commencement of the Act);
- (k) section 108 (corresponding provisions in Channel Islands and the Isle of Man);
- (l) section 122(1)(b) and (2) (interests of children in proceedings); and
- (m) for the purposes of making regulations—
 - (i) sections 3(3) and (4) and 4(1)(b) and (5) (the adoption service);
 - (ii) section 8 (adoption support agencies);
 - (iii) section 12(1) to (3) (independent review of determinations);
 - (iv) section 44 (notice of intention to adopt);
 - (v) sections 56 to 59, 60(2) and (4), 61(5) and 62(7) (disclosure of information in relation to a person's adoption post-commencement of the Act);
 - (vi) sections 77(3), 78(3), 79(5) and (7) to (9), 80(2), (4) and (6), 81(4) and paragraphs 1 and 3 of Schedule 1 and paragraph 1 of Schedule 2 (the Registers);
 - (vii) sections 83(1) to (7) and (9), 84, 86 and 87(1)(a), (2), (5) and (6) (adoptions with a foreign element);
 - (viii) section 92 (restriction on arranging adoptions);
 - (ix) section 94(1) (restriction on reports);
 - (x) section 115 except in so far as it relates to the insertion of section 14G into the Children Act 1989(3) and paragraph 60 of Schedule 3 and section 139(1) in so far as it relates to that paragraph (special guardianship);
 - (xi) section 117 (inquiries by local authorities into representations); and
 - (xii) section 121(care plans).

(2) 31st January 2005 is the appointed day for the coming into force of section 120 of the Act (meaning of “harm” in the 1989 Act).

6th December 2004

Filkin
Parliamentary Under Secretary of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the seventh Commencement Order made under the Adoption and Children Act 2002 (“the Act”).

Article 2(1) brings into force on 7th December 2004 the following provisions of the Act —

as respects England and Wales—

section 2(1) to (5), (7) and (8) (basic definitions);

section 45 which enables regulations to be made in respect of the suitability of adopters;

section 108 which enables regulations to make various provisions to give effect to orders made in the Isle of Man or the Channel Islands;

section 122(1)(b) and (2) (interests of children in proceedings); and

for the purposes only of making regulations—

section 44 (prescribed references and cases to the appropriate local authority to which notice of intention to adopt is to be given in non- agency cases);

sections 77(3), 78(3), 79(5) and (7) to (9), 80(2), (4) and (6) and 81(4) and paragraphs 1 and 3 of Schedule 1 and paragraph 1 of Schedule 2 (the registration of adoptions and the various registers);

sections 83(1) to (7) and (9), 84, 86 and 87(1)(a), (2), (5) and (6) (regulating adoptions with a foreign element);

section 92 (restrictions on arranging adoptions);

section 94 (restriction on reports);

section 115 and paragraph 60 of Schedule 3 and section 139 in so far as it relates to that paragraph (special guardianship);

section 117 (inquiries by local authorities into representations);

section 121 (the preparation of and information to be included in care plans);

as respects England —

section 2(6) (basic definitions), 4(6) and (7) (provision in respect of carrying out of assessments); section 9 to 11 (general powers to regulate adoption and adoption agencies); section 27(3) (circumstances in which the terms of a contact order may be departed from); section 53(1) to (3) (modification of the 1989 Act in relation to adoption); section 54 (amplification of the power in section 9 to enable the disclosure of information during the adoption process); sections 63 (1), (3) and (4) and 65(1), (4) and (5) and 98 (enabling regulations to be made in respect of disclosure of information in relation to a person’s adoption); and

for the purposes of making regulations—

sections 3(3) and (4) and 4(1)(b) and (5) (making provisions in relation to who may provide facilities on behalf of a local authority and the assessments for adoption support services);

section 8 which makes amendments to the Care Standards Act 2000 to enable provision for the registration of adoption support agencies under that Act;

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section 12(1) to (3) which makes provision for the establishment of a review procedure in respect of qualifying determinations made by adoption agencies.

Article 2(1) also brings into force as respects England, Scotland and Northern Ireland, section 63(2) to (5); as respects Scotland section 65(2)(a) and (3); and as respects Northern Ireland section 65(2) (b) and (3) (enables regulations to be made to require adoption agencies to make arrangements to secure the provision of counselling to those seeking information in prescribed circumstances).

Article 2(2) brings into force on 31st January 2005 section 120 of the Act which clarifies the meaning of harm in the Children Act 1989.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by Commencement Orders made before the date of this Order—

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 2(6), (7) and (8) (partially), as respects England	6 October 2003	2003/366 (C.24)
Section 2(6) as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 2(7) and (8) (partially) as respects Wales	28 November 2003	2003/3079 (C.117)
Section 4(1)(b) and (5) (partially), as to Wales	7 February 2004	2004/252 (W.27)(C.9)
Section 4(6) and (7) as to Wales	7 February 2004	2004/252 (W.27)(C.9)
Section 4(6) and (7) (partially), as respects England	6 October 2003	2003/366 (C.24)
Section 9 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 10 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 11 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 12(1) to (3) as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 16 as to Wales	29 January 2003	2003/181 (W.31) (C.9)
Section 16 as respects England	30 April 2003	2003/366 (C.24)
Section 27(3) as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 53(1) to (3) as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 54 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 56(1) and (3) as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 57(5) partially, as to Wales	7 February 2004	2004/252 (W.27) (C.9)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 57(6) as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 58(2) and (3) partially, as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 59 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 60(2) and (4) partially, as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 61(5)(c) partially, as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 62(7)(c) partially, as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 63 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 64 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 65 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 87(1)(b) and (4)	1 June 2003	2003/366 (C.24)
Section 98 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 111 Section 118	1 December 2003 21 May 2004	2003/3079 (C.117)2004/1403 (C.56)
Section 119	1 April 2004	2003/3079 (C.117)
Section 135	1 June 2003	2003/366 (C.24)
Section 139(1) partially, as respects Northern Ireland	3 February 2003	2003/288 (C.14)
Partially, as respects England	25 February 2003	2003/366 (C.24)
Partially, as respects England	30 April 2003	2003/366 (C.24)
Partially	28 November 2003	2003/3079 (C.117)
Partially	1 December 2003	2003/3079 (C.117)
Section 139(2) partially	3 February 2003	2003/288 (C.14)
Partially	25 February 2003	2003/366 (C.24)
Partially	1 April 2003	2003/366 (C.24)
Partially	1 June 2003	2003/366 (C.24)
Partially, as respects England	6 October 2003	2003/366 (C.24)
Partially, as respects England	1 December 2003	2003/3079 (C.117)
Partially, as respects England	1 April 2004	2004/3079 (C.117)
Partially, as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Section 139(3) partially	28 November 2003	2003/3079 (C.117)
Schedule 3		
Paragraph 6	1 December 2003	2003/3079 (C.117)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Paragraph 7	1 December 2003	2003/3079 (C.117)
Paragraph 53	3 February 2003	2003/288 (C.14)
Paragraph 103 partially, as respects England	30 April 2003	2003/366 (C.24)
Paragraph 103 partially, as respects Wales	28 November 2003	2003/3079 (C.117)
Paragraph 105 as respects England	30 April 2003	2003/366 (C.24)
Paragraph 105 as respects Wales	28 November 2003	2003/3079 (C.117)
Paragraph 106 as respects England	30 April 2003	2003/366 (C.24)
Paragraph 106 as respects Wales	28 November 2003	2003/3079 (C.117)
Paragraph 110 partially, as respects England	30 April 2003	2003/366 (C.24)
Paragraph 110 partially, as respects Wales	28 November 2003	2003/3079 (C.117)
Paragraph 118	28 November 2003	2003/3079 (C.117)
Schedule 4		
Paragraph 3 as respects England	6 October 2003	2003/288 (C.14)
Paragraph 3 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Paragraph 4(1)	3 February 2003	2003/288 (C.14)
Paragraph 4(2)	25 February 2003	2003/366 (C.24)
Paragraph 5 as respects England	1 April 2004	2003/3079 (C.117)
Paragraph 5 as to Wales	7 February 2004	2004/252 (W.27) (C.9)
Paragraph 10	1 June 2003	2003/366 (C.24)
Paragraph 11 partially	1 June 2003	2003/366 (C.24)
Paragraph 12 partially	1 June 2003	2003/366 (C.24)
Paragraph 13	1 June 2003	2003/366 (C.24)
Paragraph 14	1 June 2003	2003/366 (C.24)
Schedule 5		
Partially	28 November 2003	2003/3079 (C.117)