
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 152

The Adoption Support Services and Allowances (Scotland) Regulations 2009

PART 2

Adoption support services

Adoption support services for persons outside the area

4.—(1) Section 9 of the Act applies to a local authority in respect of the following persons who reside outside the authority's area—

- (a) an adoptive child whom the authority has placed for adoption or who has been adopted after being placed for adoption by the authority;
- (b) a natural parent of such a child;
- (c) an adoptive parent of such a child; and
- (d) a child of such an adoptive parent (whether or not adopted).

(2) But section 9 ceases to apply—

- (a) at the end of the period of three years from the date of the adoption order or when the adoptive child attains the age of 18, whichever is sooner; or
- (b) at any point before the end of the period of three years from the date of the adoption order or when such a child attains the age of 18, if sooner, if the following agree—
 - (i) the person in paragraph (1);
 - (ii) the local authority in whose area that person is resident; and
 - (iii) the local authority which made the assessment of the needs of that person for adoption support services.

(3) Nothing in this regulation prevents a local authority from providing adoption support services to persons outside their area where they consider it appropriate to do so.

Request for assessment or reassessment

5.—(1) Where the request of a person falling within section 9(1) of the Act for an assessment relates to a particular adoption support service, or it appears to the local authority that the person's needs for adoption support services may be adequately assessed by reference to a particular adoption support service, the local authority may carry out the assessment by reference only to that particular service.

(2) Where a local authority receive a request of a person falling within section 9(1) of the Act for an assessment of the person's needs for adoption support services, the local authority must start that assessment as soon as practicable and no later than 4 weeks from receipt of the request.

(3) Where a relevant member⁽¹⁾ under section 49(2) of the Act requires a reassessment of their needs for adoption support services in relation to a particular adoption support service, or it appears to the local authority that the relevant member's needs for adoption support services may be adequately reassessed by reference to a particular adoption support service, the local authority may carry out the reassessment by reference only to that particular service.

(4) Where a relevant member under section 49(2) of the Act requires a reassessment of their needs for adoption support services, the local authority must start that reassessment as soon as practicable and no later than 4 weeks from receipt of notification of the requirement from the relevant member.

Procedure for assessment

6.—(1) Where the local authority carry out an assessment of a person's needs for adoption support services under section 9 of the Act they must have regard to such of the following considerations as are relevant to the assessment—

- (a) the needs of the person being assessed and how these might be met;
- (b) the needs of the relevant family and how these might be met;
- (c) the needs, including developmental needs, of the adoptive child and how these might be met;
- (d) the parenting capacity of the adoptive parent;
- (e) wider family and environmental factors;
- (f) in the case of an adoptive child who is, or was, placed for adoption or matched for adoption, the circumstances that led to the child being so placed or matched; and
- (g) any previous assessment of needs for adoption support services undertaken in relation to the person in question.

(2) Where the local authority carry out an assessment of a person's needs for adoption support services they must—

- (a) where they consider it appropriate to do so, interview the person and, where the person is an adoptive child, that child's adoptive parents;
- (b) where they consider that the person may have a need for services from a Health Board, consult that Health Board;
- (c) seek advice and information from such other persons as they consider appropriate; and
- (d) prepare a written report of the assessment.

Procedure for reassessment

7.—(1) Where the local authority carry out a reassessment of the needs for adoption support services of a relevant member under section 49 of the Act they must have regard to such of the following considerations as are relevant to the reassessment—

- (a) the needs of the relevant member being reassessed and how these might be met;
- (b) the needs of the relevant family and how these might be met;
- (c) the needs, including developmental needs, of the adoptive child and how these might be met;
- (d) the parenting capacity of the adoptive parent;
- (e) wider family and environmental factors;

(1) "Relevant member" is defined in section 47(2) of the Act and that meaning is incorporated into section 49 by subsection (8)(b).

- (f) in the case of a child who is, or was, placed for adoption or matched for adoption, the circumstances that led to the child being so placed or matched; and
 - (g) any previous assessment or reassessment of needs for adoption support services undertaken in relation to the relevant member in question.
- (2) Where the local authority carry out a reassessment of a relevant member's needs for adoption support services they must—
- (a) where they consider it appropriate to do so, interview the relevant member and, where the relevant member is an adoptive child, that child's adoptive parents;
 - (b) where they consider that the relevant member may have a need for services from a Health Board, consult that Health Board;
 - (c) seek advice and information from such other persons as they consider appropriate; and
 - (d) prepare a written report of the assessment.

Notice of proposal to provide adoption support services

8.—(1) Before making a decision under section 9(2) or 49(3) of the Act as to whether to provide adoption support services, the local authority must allow the person an opportunity to make representations in accordance with this regulation.

(2) The local authority must first give the person notice of the proposed decision and the time allowed for making representations, which must be no less than 2 weeks from the notice of the proposed decision.

(3) The notice must contain the following information—

- (a) a statement as to the person's needs for adoption support services;
- (b) where the assessment or reassessment relates to the person's need for an adoption allowance, the basis upon which that allowance is determined;
- (c) whether the local authority propose to provide the person with adoption support services;
- (d) the services (if any) that are proposed to be provided to the person;
- (e) if an adoption allowance is to be paid to the person, the proposed amount that would be payable; and
- (f) any proposed conditions under regulation 15 (conditions for payment of adoption allowances).

(4) In a case where the local authority propose to provide adoption support services and are required to prepare an adoption support plan under section 45(2) of the Act, the notice must be accompanied by a draft of that plan prepared in accordance with section 45(3) of the Act.

(5) The local authority must not make a decision until—

- (a) the person has made representations to the local authority or notified the local authority that they are satisfied with the proposed decision and, where applicable, the draft plan; or
- (b) the period of time for making representations has expired.

Notification of decision as to adoption support services or adoption allowances

9.—(1) After making their decision under section 9(2) or 49(3) of the Act as to whether to provide adoption support services, the local authority must give the person notice of that decision, including the reasons for it.

(2) Where the local authority are required to prepare an adoption support plan under section 45(2) of the Act, the notice must be accompanied by that plan.

(3) If the local authority decide that an adoption allowance is to be provided, notice given under paragraph (1) must include the following information–

- (a) the method of the determination of the amount of the adoption allowance;
- (b) where an adoption allowance is to be paid periodically or by instalments–
 - (i) the amount of the allowance;
 - (ii) the frequency with which the payment will be made;
 - (iii) the period for which the adoption allowance is to be paid; and
 - (iv) when the first payment of the adoption allowance is to be made.
- (c) where the adoption allowance is to be paid as a single payment, when the payment is to be made;
- (d) where the adoption allowance is to be paid subject to any conditions imposed in accordance with regulation 15 (conditions for payment of adoption allowances), those conditions, the date (if any) by which the conditions are to be met and the consequences of failing to meet the conditions;
- (e) the arrangements and procedure for review, variation and termination of adoption allowances; and
- (f) the responsibilities of–
 - (i) the local authority under regulation 16 (review of adoption allowances payable periodically or by instalments); and
 - (ii) the adoptive parent pursuant to any agreement mentioned in regulation 15.