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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 182**

**The Adoptions with a Foreign  
Element (Scotland) Regulations 2009**

**PART 3**

**ADOPTIONS UNDER THE CONVENTION**

**CHAPTER 3**

**MISCELLANEOUS PROVISIONS**

**Application of the Act to, and making of, Convention adoption orders**

**53.**—(1) Subject to the modifications provided for in this Chapter, the provisions of the Act apply to Convention adoption orders so far as the nature of the provision permits and unless the contrary intention is shown.

(2) Without prejudice to paragraph (1), an adoption order is to be made as a Convention adoption order if—

- (a) the application is for a Convention adoption order; and
- (b) the requirements specified in regulation 34 or, as the case may be, regulation 51 are complied with.

**Notification to local authority of adoption application**

**54.** Section 18(1) of the Act applies as if for the words “not placed for adoption with the applicants by an adoption agency” there were substituted “entrusted to the applicants by a competent authority within the meaning of the Convention (other than an adoption agency which placed the child for adoption with the applicants).”.

**Prohibition on removal where Convention adoption order pending**

**55.** Section 20 of the Act applies as if—

- (a) for subsection (1) there were substituted—

“(1) Where an application for a Convention adoption order in respect of a child has been made but not disposed of, a parent or guardian of the child is not entitled to remove the child from the care of the applicant except with the consent of the court.”; and
- (b) subsection (2) were omitted.

**Removal of children**

**56.**—(1) In a case falling within Chapter 1 of this Part, sections 21 to 23 of the Act do not apply.

(2) In a case falling within Chapter 2 of this Part, section 21 of the Act applies as if—

- (a) in subsection (4), references to an adoption order were references to a Convention adoption order; and
- (b) subsection (6) were omitted.

**Return or delivery of child**

57. As respects Convention adoption orders, the Act applies as if sections 25 and 26 were omitted.

**Age of person in respect of whom Convention adoption order may be made**

58. Section 28(4) of the Act applies as if “or over” were omitted.

**Application for Convention adoption order by relevant couple**

59. Section 29 of the Act applies as if—

- (a) in subsection (1)—
  - (i) “and” were inserted at the end of paragraph (a);
  - (ii) paragraph (c) and “and” immediately preceding it were omitted; and
- (b) subsection (2) were omitted.

**Application for Convention adoption order by one person**

60. Section 30 of the Act applies as if subsections (1)(c), (3)(d) and (6) were omitted.

**Convention adoption orders: consent**

61. As respects Convention adoption orders, the Act applies as if section 31 were omitted.

**Application and modification of the Adoption Agencies Regulations**

62.—(1) Subject to paragraphs (2) and (3), the provisions of the Adoption Agencies Regulations apply to adoptions to be effected by a Convention adoption order or a Convention adoption, so far as the nature of the provision permits and unless the contrary intention is shown.

(2) In their application to such adoptions, the Adoption Agencies Regulations apply as if—

- (a) regulations 6, 7, 8, 9, 10, 11, 14, 15, and 21 were omitted;
- (b) in regulation 13—
  - (i) paragraphs (1) and (2) were omitted;
  - (ii) in paragraph (3) the references to a decision were to a decision mentioned in regulation 18(1) of these Regulations;
  - (iii) in that paragraph the reference to a recommendation were to a recommendation under regulation 17(1)(b) of these Regulations;
  - (iv) in paragraph (4) the reference to the decision under paragraph (1) of regulation 13 were a reference to a decision mentioned in regulation 18(1) of these Regulations; and
  - (v) in each of paragraphs (5) and (6) the references to a recommendation under regulation 6(2) were references to a recommendation under regulation 17(1)(b) of these Regulations; and
- (c) in each of regulations 16(1) and 17(1), the references to a decision under regulation 13(1) were references to a decision mentioned in regulation 18(1) of these Regulations.

(3) In a case falling within Chapter 1 of this Part, the Adoption Agencies Regulations apply as if regulations 24 and 25 of those Regulations were omitted.

### **Offences**

**63.**—(1) Any person who contravenes or fails to comply with any of the regulations mentioned in paragraph (2) commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

(2) The regulations are—

- (a) regulation 26;
- (b) regulation 29(1);
- (c) regulation 30(1)(b);
- (d) regulation 30(3); and
- (e) regulation 36.