

SCHEDULES

SCHEDULE 10

AMENDMENTS OF ADOPTION LEGISLATION

PART II

AMENDMENTS OF ADOPTION (SCOTLAND) ACT 1978 (c. 28)

- 32 In section 11 (restrictions on arranging of adoptions and placing of children) for subsection (2) there shall be substituted—
- “(2) An adoption society which is—
- (a) approved as respects England and Wales under section 3 of the Adoption Act 1976; or
 - (b) registered as respects Northern Ireland under Article 4 of the Adoption (Northern Ireland) Order 1987,
- but which is not approved under section 3 of this Act, shall not act as an adoption society in Scotland except to the extent that the society considers it necessary to do so in the interests of a person mentioned in section 1 of that Act or, as the case may be, Article 3 of that Order.”
- 33 For section 14(1) (adoption by married couple) there shall be substituted—
- “(1) Subject to section 53(1) of the Children Act 1975 (which provides for the making of a custody order instead of an adoption order in certain cases), an adoption order shall not be made on the application of more than one person except in the circumstances specified in subsections (1A) and (1B).
- (1A) An adoption order may be made on the application of a married couple where both the husband and the wife have attained the age of 21 years.
- (1B) An adoption order may be made on the application of a married couple where—
- (a) the husband or the wife—
 - (i) is the father or mother of the child; and
 - (ii) has attained the age of 18 years; and
 - (b) his or her spouse has attained the age of 21 years.”
- 34 In section 16(1)(a) (parental agreement) for the words from “in England” to “revoked”, in the second place where it occurs, there shall be substituted—
- (i) in Scotland under section 18;
 - (ii) in England and Wales under section 18 of the Adoption Act 1976; or
 - (iii) in Northern Ireland under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987,

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and not revoked”.

35 In section 18(5) (effect of order freeing child for adoption) for the words “and (3)” there shall be substituted “to (4)”.

36 In section 20(3)(c) (revocation of section 18 order) the words “section 12(3)(b) of the Adoption Act 1976 or of” shall cease to have effect.

37 For section 21 (transfer of parental rights and duties between adoption agencies) there shall be substituted—

“21 Variation of section 18 order so as to substitute one adoption agency for another

(1) On an application to which this section applies an authorised court may vary an order under section 18 so as to transfer the parental rights and duties relating to the child from the adoption agency in which they are vested under the order (“the existing agency”) to another adoption agency (“the substitute agency”).

(2) This section applies to any application made jointly by the existing agency and the would-be substitute agency.

(3) Where an order under section 18 is varied under this section, section 19 shall apply as if the parental rights and duties relating to the child had vested in the substitute agency on the making of the order.”

38 In section 22(4) (notification to local authority of adoption application) for the word “receives” there shall be substituted “receive”.

39 In section 29 (return of child taken away in breach of section 27 or 28) after the word “1976” in each place where it occurs there shall be inserted “or Article 28 or 29 of the Adoption(Northern Ireland) Order 1987”.

40 In section 32 (meaning of “protected child”), at the end of subsection (2) there shall be added “or Article 33 of the Adoption (Northern Ireland) Order 1987”.

41 In section 45 (adopted children register)—

(a) for the words from “or an approved” in subsection (5) to the end of subsection (6) there shall be substituted—

“Board or adoption society falling within subsection (6) which is providing counselling for that adopted person.

(6) Where the Registrar General for Scotland furnishes an adopted person with information under subsection (5), he shall advise that person that counselling services are available—

(a) if the person is in Scotland—

- (i) from the local authority in whose area he is living;
- (ii) where the adoption order relating to him was made in Scotland, from the local authority in whose area the court which made the order sat; or
- (iii) from any other local authority in Scotland;

(b) if the person is in England and Wales—

- (i) from the local authority in whose area he is living;

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- (ii) where the adoption order relating to him was made in England and Wales, from the local authority in whose area the court which made the order sat; or
 - (iii) from any other local authority in England and Wales;
 - (c) if the person is in Northern Ireland—
 - (i) from the Board in whose area he is living;
 - (ii) where the adoption order relating to him was made in Northern Ireland, from the Board in whose area the court which made the order sat; or
 - (iii) from any other Board;
 - (d) if the person is in the United Kingdom and his adoption was arranged by an adoption society—
 - (i) approved under section 3;
 - (ii) approved under section 3 of the Adoption Act 1976; or
 - (iii) registered under Article 4 of the Adoption (Northern Ireland) Order 1987,from that society.
- (6A) Where an adopted person who is in Scotland—
 - (a) is furnished with information under subsection (5); or
 - (b) applies for information under—
 - (i) section 51(1) of the Adoption Act 1976; or
 - (ii) Article 54 of the Adoption (Northern Ireland) Order 1987,any body mentioned in subsection (6B) to which the adopted person applies for counselling shall have a duty to provide counselling for him.
- (6B) The bodies referred to in subsection (6A) are—
 - (a) any local authority falling within subsection (6)(a); and
 - (b) any adoption society falling within subsection (6)(d) so far as it is acting as an adoption society in Scotland.”;
- (b) in subsection (7)—
 - (i) for the word “under” there shall be substituted “from a local authority, Board or adoption society falling within”;
 - (ii) for the words “or adoption society which is providing that counselling” there shall be substituted “, Board or adoption society”;
 - (iii) after the word “authority” where it second occurs there shall be inserted “, Board”;
- (c) after subsection (9) there shall be inserted the following subsection—

“(10) In this section—
“Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972; and

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“local authority”, in relation to England and Wales, means the council of a county (other than a metropolitan county), a metropolitan district, a London borough or the Common Council of the City of London.”

- 42 In section 49 (adoption of children abroad)—
- (a) in subsection (1) after the word “Scotland” there shall be inserted “or Northern Ireland”; and
 - (b) in subsection (3) for the words “word “England”” there shall be substituted “words “(England)” or “(Northern Ireland)””.
- 43 In section 50(1) (restriction on removal of children for adoption outside Great Britain) after the word “1976” there shall be inserted “or Article 57 of the Adoption (Northern Ireland) Order 1987”.
- 44 In section 53(1) (effect of determination and orders made in England and Wales and overseas in adoption proceedings)—
- (a) in subsection (1) for the words “Great Britain” there shall be substituted “the United Kingdom”; and
 - (b) for subsection (2) there shall be substituted—
 - “(2) Subsections (2) to (4) of section 12 shall apply in relation to an order freeing a child for adoption (other than an order under section 18) as if it were an adoption order; and on the revocation in England and Wales or Northern Ireland of an order freeing a child for adoption subsection (3) of section 20 shall apply as if the order had been revoked under that section.”
- 45 In section 54(b) (evidence of adoption in Northern Ireland) for the words from “section 23(4)” to “in force” there shall be substituted “Article 63(1) of the Adoption (Northern Ireland) Order 1987”.
- 46 In section 65(1) (interpretation)—
- (a) in the definition of “adoption agency”, at the end there shall be added “and an adoption agency within the meaning of Article 3 of the Adoption (Northern Ireland) Order 1987 (adoption agencies in Northern Ireland)”;
 - (b) for the definition of “adoption order” there shall be substituted—
 - ““adoption order”—
 - (a) means an order under section 12(1); and
 - (b) in sections 12(3) and (4), 18 to 20, 27, 28 and 30 to 32 and in the definition of “British adoption order” in this subsection includes an order under section 12 of the Adoption Act 1976 and Article 12 of the Adoption (Northern Ireland) Order 1987 (adoption orders in England and Wales and Northern Ireland respectively); and
 - (c) in sections 27, 28 and 30 to 32 includes an order under section 49, section 55 of the Adoption Act 1976 and Article 57 of the Adoption(Northern Ireland) Order 1987 (orders in relation to children being adopted abroad);”;
 - (c) for the definition of “British adoption order” there shall be substituted—
 - ““British adoption order” means—

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- (a) an adoption order as defined in this subsection; and
 - (b) an order under any provision for the adoption of a child effected under the law of any British territory outside the United Kingdom;”;
- (d) in the definition of “order freeing a child for adoption” for the words from “section 27(2)” to the end there shall be substituted “sections 27(2) and 53 includes an order under—
- (a) section 18 of the Adoption Act 1976; and
 - (b) Article 17 or 18 of the Adoption (Northern Ireland) Order 1987;”.