
STATUTORY INSTRUMENTS

1997 No. 744 (C. 27) (S.70)

CHILDREN AND YOUNG PERSONS

The Children (Scotland) Act 1995 (Commencement No. 3) (Amendment and Transitional Provisions) Order 1997

Made - - - - 7th March 1997

The Secretary of State in exercise of the powers conferred upon him by section 105(1) of the Children (Scotland) Act 1995⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Children (Scotland) Act 1995 (Commencement No. 3) (Amendment and Transitional Provisions) Order 1997.

(2) In this Order “the third commencement order” means the Children (Scotland) Act 1995 (Commencement No. 3) Order 1996⁽²⁾.

Amendment of the third commencement order

2. In the third commencement order for Article 3(7) there shall be substituted the following—

“(7) The provisions of the Act, insofar as not already in force, shall come into force on 1st April 1997 except—

- (a) section 98 of and paragraph 25 of Schedule 2 to the Act insofar as they insert new section 51A into the Adoption (Scotland) Act 1978, which shall come into force on 1st April 1998;
- (b) section 101 of the Act;
- (c) the entry in Schedule 5 to the Act relating to the Trusts (Scotland) Act 1921⁽³⁾; and
- (d) the entries in Schedule 4, paragraph 26(8), and in Schedule 5 to the Act relating to section 103 of the Children Act 1975⁽⁴⁾.”

3. After Article 3 of the third commencement order there shall be inserted the following—

(1) 1995 c. 36.
(2) S.I. 1996/3201.
(3) 1921 c. 58.
(4) 1975 c. 72.

“Transitional provisions

4.—(1) Subject to paragraphs (2) and (3) and notwithstanding the provisions of paragraph 3 of Schedule 3 to the Act, where the parental rights and powers in respect of a child have, by resolution under section 16 of the Social Work (Scotland) Act 1968⁽⁵⁾, vested in a local authority or, as the case may be, a voluntary organisation and immediately prior to 1st April 1997 those rights remain so vested, provided—

- (a) the period of one month after the serving of a notice under section 16(5) of that Act has not yet expired and no counter-notice under section 16(7) of that Act has been served on the local authority; or
- (b) a counter-notice under section 16(7) of that Act has been served, but there still remains unexpired part of the 14 days referred to in section 16(8) without the local authority having made a summary application to the sheriff under section 16(8) of that Act,

then the provisions of the Social Work (Scotland) Act 1968 shall continue to apply to the resolution under s16 of the Social Work (Scotland) Act 1968 for the duration of whichever of the unexpired periods referred to in paragraphs (a) and (b) applies.

(2) If a counter-notice referred to in sub-paragraph (1)(a) is served within the one month period specified in that sub-paragraph, the provisions of the Social Work (Scotland) Act 1968 shall apply not for the remaining unexpired part of the month but for a further 14 days from the date of the serving of the notice or, if a summary application is made within that period, until the determination of that application by the sheriff.

(3) If a summary application referred to in sub-paragraph (1)(b) is made within the unexpired part of the 14 days referred to in that sub-paragraph, the provisions of the Social Work (Scotland) Act 1968 shall apply not for the remaining unexpired part of the 14 days but until the determination of the summary application by the sheriff.

(4) If a summary application has been served before 1st April 1997 and is at that date still pending, the provisions of the Social Work (Scotland) Act 1968 shall apply until the determination of that application by the sheriff.

5. Where prior to 1st April 1997 there has been lodged under Part II of the Adoption (Scotland) Act 1978⁽⁶⁾ any application for an adoption order or for a freeing for adoption order, the provisions of that Act shall apply to those proceedings after 1st April 1997 notwithstanding any amendment or repeal of any provisions of that Act by the Children (Scotland) Act 1995.

6. Notwithstanding the terms of regulations 3 and 9 of the Arrangements to Look After Children (Scotland) Regulations 1996⁽⁷⁾ where on 1st April 1997 the child is looked after by the local authority for the purposes of section 17(6) of the Act the local authority must make a care plan in respect of the child and carry out a review of the child’s case within 6 months from 1st April 1997.”.

St Andrew’s House,
Edinburgh
7th March 1997

James Douglas-Hamilton
Minister of State, Scottish Office

(5) 1968. c.49.
(6) 1978 c. 28.
(7) S.I. 1996/3262.

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Children (Scotland) Act 1995 (Commencement No. 3) Order 1996 to exclude from commencement on 1st April 1997 section 101 of the Children (Scotland) Act 1995 and to exclude from repeal on that date section 103 of the Children Act 1975. It also makes some transitional provisions consequent on provisions of the Act being brought into force.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Name of Order</i>	<i>S.I. Number</i>
1. The Children (Scotland) Act 1995 (Commencement No. 1) Order 1995	S.I. 1995/2787
2. The Children (Scotland) Act 1995 (Commencement No. 2 and Transitional Provisions) Order 1996	S.I. 1996/2203
3. The Children (Scotland) act 1995 (Commencement No. 2 and Transitional Provisions) (Amendment) Order 1996	S.I. 1996/2708
4. The Children (Scotland) Act 1995 (Commencement No. 2 and Transitional Provisions) (Amendment) Order 1997	S.I. 1997/137
5. The Children (Scotland) Act 1995 (Commencement No. 3) Order 1996	S.I. 1996/3201