STATUTORY INSTRUMENTS

1977 No. 227 (C. 9) (S. 33)

CHILDREN AND YOUNG PERSONS

The Children Act 1975 (Scotland) (Commencement No. 1) Order 1977

Made - - - - 2nd February 1977

In exercise of the powers conferred on me by section 108(2) and (8) of the Children Act 1975**(a)** and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation and extent

1.—(1) This order may be cited as the Children Act 1975 (Scotland) (Commencement No. 1) Order 1977.

(2) This order shall extend to Scotland only.

Interpretation

2.—(1) In this order—

"the Act" means the Children Act 1975

"the 1948 Act" means the Children Act 1948**(b)**

"the 1958 Act" means the Adoption Act 1958**(c)**

"the 1968 Act" means the Social Work (Scotland) Act 1968**(d)**.

(2) The Interpretation Act 1889**(e)** shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

Appointed Date

3. The provisions of the Act specified in the Column 1 of each of Schedule 1 to this order and of the two Appendices to that Schedule (which provisions relate to the matters specified in Column 2 of each of Schedule 1 and of the Appendices) shall come into force on 7th March 1977; provided that, without prejudice to the coming into force of the provisions so specified in Column 1 of Schedule 1, the enactment of the provisions specified in Column 3 of Schedule 1 shall not come into force.

Transitional Provisions and Adaptations

4. The transitional provisions and adaptations contained in Schedule 2 to this order shall have effect in connection with the provisions brought into force by this order.

(a) 1975 c. 72.
(b) 1948 c. 43.
(c) 7 & 8 Eliz. 2. c. 5.
(d) 1968 c. 49.
(e) 1889 c. 63.

Bruce Millan,
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House.
Edinburgh.
2nd February 1977.

Article 3

SCHEDULE 1

PROVISIONS COMING INTO FORCE ON 7 MARCH 1977

Column 1 *Provision of the Act*	*Column* 2 *Subject matter*	*Column* 3 *Provision of the Act not coming into force*
Section 8(1) to (8)	Adoption orders	
Section 10(1) and (2)	Adoption by married couple	
Section 11(1) to (3)	Adoption by one person	
Section 12	Parental agreement	
Section 17(1), (2) & (4)	Care etc of child on refusal of adoption order	
Section 21(4)	Proceedings in private	
Section 22(4), (5) & (6)	Making of order	
Section 27	Counselling for adopted person seeking information about his birth.	
Section 28(*c*)(ii)	Increase of penalties.	
Section 29	Restriction on removal of child pending adoption where adoption agreed or where applicant has provided home for five years.	
Section 30(1), (2) & (6)	Return of child taken away in breach of section 34 or 34A of the 1958 Act.	
Section 31	Return of child on refusal of adoption order.	
Section 73	Amendment of section 15 of the 1968 Act (Duty of local authority to provide for orphans, deserted children, etc.)	
Section 74	Substitution of section 16 of the 1968 Act (Assumption by local authority of parental rights)	(i) Section 16(1)(*b*), (4) & (11)(*d*) (ii) In Section 16(5) the words "or in the voluntary organisation as the case may be,"

Column 1 *Provision of the Act*	*Column 2* *Subject matter*	*Column 3* *Provision of the Act not coming into force*
Section 76	Return of children taken away in breach of section 17(8) or (9) of the 1968 Act (Effect of assumption by local authority of parental rights)	
Section 77, so far as it inserts section 18(4A) (*a*) in the 1968 Act.	Making of adoption orders where local authority has parental rights	
Section 79	Amendment of section 20 of the 1968 Act (Duty of local authority to further the best interests of a child in their care and to afford opportunity for his proper development)	
Section 81	Restriction on removal of child from care of voluntary organisation.	

APPENDIX A TO SCHEDULE 1

AMENDMENTS COMING INTO FORCE ON 7 MARCH 1977

Column 1 *Provision in Schedule 3 to the Act*	*Column 2* *Enactment amended*
Paragraph 30(*b*)	Section 36(3) of the 1958 Act
Paragraph 31(*b*), so far as it substitutes section 37(4A) for section 37(4) of the 1958 Act.	Section 37(4) of the 1958 Act
Paragraph 34(*a*)	Section 50(1)(*b*) of the 1958 Act
Paragraph 37	Section 55 of the 1958 Act
Paragraph 39(*a*)	Section 57(1) of the 1958 Act
Paragraph 52(*a*), (*c*), (*d*) and (*f*) (i)	Section 17(3), (4), (6) and (8) of the 1968 Act
Paragraph 53(*a*) and (*b*) (i) and (ii)	Section 18(2) and (3) of the 1968 Act
Paragraph 64	Section 11(1) of the Adoption Act 1968 (1968 c. 53).

APPENDIX B TO SCHEDULE 1

REPEALS COMING INTO FORCE ON 7 MARCH 1977

Column 1 *Provision in Schedule 4 to the Act*	*Column 2* *Subject matter*
Part IV, except the repeal of section 12(3) of the 1958 Act	Adoption orders
Part V	Children in care of local authorities

Article 4

SCHEDULE 2

TRANSITIONAL PROVISIONS AND ADAPTATIONS

Schedule 4

1. The following adaptations are made to the footnote to Part IV of Schedule 4 to the Act:—

(*a*) after the words "These repeals" there are inserted the words "except the repeal of section 12(3) of the Adoption Act 1958"; and

(*b*) after the words "comes into force." there are added the words "The repeal of section 12(3) of the Adoption Act 1958 takes effect on the date section 18 comes into force".

The 1958 Act

2. In section 3(2) of the 1958 Act for the words "was then resident" there are substituted the words "had his home".

3. In sections 6(1) and (2) and 8(2) of the 1958 Act for the words "consent" and "consenting party" wherever they occur, there are substituted respectively the words "agreement" and "person giving the agreement".

4. Until the coming into force of section 18 of the Act, section 12(3) of the 1958 Act is subject to the following adaptations:—

(*a*) for the words "are not or one of whom is not ordinarily resident", there are substituted the words "have not had their home or one of whom has not had his home"; and

(*b*) the words "(as modified by subsection (1) of this section)" are omitted.

5. In section 53(2) of the 1958 Act after the words "sheriff court" there are added the words "of the sheriffdom within which the child is".

6. In section 53(3) of the 1958 Act for the words "this Act" there are substituted the words "the Children Act 1975".

7. In section 53(4) of the 1958 Act for the words "sections sixteen, seventeen and" there is substituted the word "section" and after the word "nineteen", there are inserted the words "and the provisions of Part I of the Children Act 1975 for the time being in force other than section 8(9) and (10).".

Savings

8. In so far as anything done under any provision of any enactment, the repeal of which is brought into force by this order, could have been done under the corresponding provision, if any, of an enactment brought into force by this order, it shall not be invalidated by the repeal but shall have effect as if done under the latter provision.

9. Any reference, whether express or implied, in any document to any provision in any enactment the repeal of which is brought into force by this order shall, unless

the context otherwise requires, be construed as a reference to the corresponding provision, if any, of an enactment brought into force by this order.

10. Notwithstanding the bringing into force by this order of the repeal of any provision of the 1958 Act any proceedings pending at the commencement of this order under that provision may be continued under the corresponding provision, if any, of the Act.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order brings into force on 7th March 1977 for Scotland only, the provisions of the Children Act 1975 specified in Schedule 1 to the Order (subject to the transitional provisions and adaptations in Schedule 2 to the Order).

These provisions include provisions relating to:—

(*a*) adoption orders

(*b*) counselling for adopted persons

(*c*) restrictions on removal of a child in care or pending adoption

(*d*) assumption of parental rights and powers by local authorities

(*e*) children in care of local authorities.

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