

2008 No. 282 (C.23)

CHILDREN AND YOUNG PERSONS

**The Adoption and Children (Scotland) Act 2007
(Commencement No. 2) Order 2008**

Made - - - -

18th August 2008

The Scottish Ministers make the following Order in exercise of the powers conferred by section 121(2) of the Adoption and Children (Scotland) Act 2007(a).

Citation

1. This Order may be cited as the Adoption and Children (Scotland) Act 2007 (Commencement No. 2) Order 2008.

Appointed Day

2. The day appointed for the coming into force of sections 62 to 65 of the Adoption and Children (Scotland) Act 2007 is 1st September 2008.

FIONA HYSLOP
A member of the Scottish Executive

St Andrew's House,
Edinburgh
18th August 2008

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st September 2008 sections 62 to 65 of the Adoption and Children (Scotland) Act 2007.

Section 62 applies where the Scottish Ministers believe that it would be contrary to public policy to continue bringing children into the United Kingdom, in the cases outlined in subsection (2), from a country or territory outside the British Islands (the “relevant country”) due to practices taking place in that country or territory. Subsection (3) allows the Scottish Ministers to declare by order that special restrictions are to apply to any relevant country in relation to the bringing in of children in the cases mentioned in subsection (2). The Scottish Ministers must publish the reasons for making the declaration and a list of the restricted countries. Subsections (5) and (6) require the list to be kept up to date and for it to be published, together with the reasons for the declaration, in such a way as the Scottish Ministers consider appropriate for bringing them to the attention of adoption agencies and the public.

Section 63 requires the list to be kept under review and imposes a duty upon the Scottish Ministers to revoke an order made under section 62(3) where they deem that it is no longer necessary.

Section 64(2) allows the Scottish Ministers to disregard special restrictions in individual cases if they are satisfied that they should do so. Subsection (3) gives powers to make regulations that provide for the procedure to be followed and the matters to be taken into account by the Scottish Ministers in determining whether or not to disregard the special restrictions.

Section 65(1)(a) gives powers to make regulations which allow the Scottish Ministers to specify, in the restricted list, additional steps which have been agreed between the United Kingdom and a restricted country, which are not otherwise provided for by any enactment, but which the Scottish Ministers normally take in connection with bringing a child from the restricted country into the United Kingdom. Subsection (1)(b) states that where a step has been specified under subsection (1)(a), one or more conditions set out in the regulations must be met in connection with a British resident bringing a child from the relevant restricted country into the United Kingdom in either of the cases specified in section 62(2). Subsection (3) makes it an offence for any person to bring, or cause another person to bring, a child into the United Kingdom for the purposes of adoption if they have not met any condition which they are required to meet in terms of regulations made under subsection (1)(b).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The Adoption and Children (Scotland) Act 2007 (“the Act”) received Royal Assent on 15th January 2007 and sections 116, 117 and 121 came into force on that day. The first commencement order, the Adoption and Children (Scotland) Act 2007 (Commencement No. 1) Order 2008 (S.S.I. 2008/130), was made on 19th March 2008. The provisions of the Act commenced by that Order are detailed in the table below.

<i>Provision</i>	<i>Purpose</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 2(3)	Only in relation to the definition of “registered adoption service” in section 119(1) of the Act	7th April 2008	2008/130
Section 119(1)		7th April 2008	2008/130
Section 120(1)	Only in relation to paragraph 9(1) and (5) of Schedule 2 of the Act	7th April 2008	2008/130
Schedule 2 paragraph 9(1) and (5)		7th April 2008	2008/130

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