

**2010 No. 2469**

**CONSTITUTIONAL LAW**

**DEVOLUTION, SCOTLAND**

**CHILDREN AND YOUNG PERSONS**

**The Adoption and Children (Scotland) Act 2007 (Consequential Provisions) Order 2010**

*Made* - - - - - *12th October 2010*

*Laid before Parliament* *12th October 2010*

*Coming into force* - - *2nd November 2010*

The Secretary of State for Education makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2), (4) and (5) of the Scotland Act 1998(a).

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Adoption and Children (Scotland) Act 2007 (Consequential Provisions) Order 2010 and comes into force on 2nd November 2010.

(2) This Order does not extend to Scotland.

**Interpretation**

**2.** In this Order—

“the 2002 Act” means the Adoption and Children Act 2002(b); and

“relevant Scottish permanence order” means—

- (a) a deemed permanence order having effect by virtue of article 17(1) or 19(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No 4, Transitional and Savings Provisions) Order 2009(c); or
- (b) any other order under section 80 of the Adoption and Children (Scotland) Act 2007(d) which includes provision granting authority for the child to be adopted.

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(a) 1998 c.46.  
(b) 2002 c.38.  
(c) S.S.I. 2009/267.  
(d) 2007 asp 4.

### **Modification of section 47(6) of the 2002 Act**

3. Section 47(6) of the 2002 Act (the third condition for making an adoption order) shall have effect as if the reference to a child free for adoption by virtue of an order made in Scotland under section 18 of the Adoption (Scotland) Act 1978(a) were a reference to a child subject to a relevant Scottish permanence order.

### **Effect of a relevant Scottish permanence order in England and Wales**

4. In section 105(2) of the 2002 Act (effect of freeing orders in England and Wales) the reference to an order under section 18 of the Adoption (Scotland) Act 1978 and the revocation or variation of such an order under section 20 or 21 of that Act shall have effect as if it were a reference to a relevant Scottish permanence order.

### **Modifications of the Adoption (Northern Ireland) Order 1987**

5. In the Adoption (Northern Ireland) Order 1987(b)—

- (a) the definition of the expression “order freeing a child for adoption” in article 2 (interpretation), and
- (b) paragraph (1)(a) of article 16 (parental agreement),

each has effect as if the reference to a child free for adoption by virtue of an order under section 18 of the Adoption (Scotland) Act 1978 were a reference to a child subject to a relevant Scottish permanence order.

### **Period for which this Order has effect**

6. This Order ceases to have effect at the end of the period of 8 months beginning with the day on which it comes into force.

*Tim Loughton*  
Parliamentary Under Secretary of State  
Department for Education

12th October 2010

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made in consequence of the Adoption and Children (Scotland) Act 2007 (“the 2007 Act”). The 2007 Act repeals and replaces the Adoption (Scotland) Act 1978 (“the 1978 Act”) with the exception of Part 4 of that Act which concerns the status of adopted children. The 2007 Act provides for the making of permanence orders which grant authority to adopt. These orders will replace freeing orders under the 1978 Act.

This Order makes modifications to sections 47(6) and 105(2) of the Adoption and Children Act 2002 and articles 2 and 16(1)(a) of the Adoption (Northern Ireland) Order 1987 in order to provide that the references to freeing orders under the 1978 Act have effect as if they were references to a child subject to a relevant Scottish permanence order. A “relevant Scottish permanence order” is defined in article 2 of this Order as being either a permanence order made under section 80 of the 2007 Act which grants authority to adopt or a deemed permanence order substituted by virtue of transitional provisions in the Adoption and Children (Scotland) Act 2007 (Commencement No 4, Transitional and Savings Provisions) Order 2009). This would include an order made under

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(a) 1978 c. 28.

(b) S.I. 1987/2203 (N.I. 22).

section 80 of the 2007 Act which is subsequently amended under section 93 of that Act to include provision granting authority to adopt.

Article 6 provides that this Order will only remain in force for a period of 8 months from the day on which it comes into force.

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