STATUTORY INSTRUMENTS

2018 No. 153

IMMIGRATION

The Transfer of Responsibility for Relevant Children (Extension to Wales, Scotland and Northern Ireland) Regulations 2018

Made - - - - 6th February 2018

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 73 and 93(6) of the Immigration Act 2016(**1**).

In accordance with section 93(2)(g) of that Act, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Transfer of Responsibility for Relevant Children (Extension to Wales, Scotland and Northern Ireland) Regulations 2018 and come into force on the day after the day on which they were made.

Amendments to Part 5 of the Immigration Act 2016: general

2. Sections 69 to 72 of the Immigration Act 2016 (transfer of responsibility for relevant children) —

(a) extend to Scotland and Northern Ireland (as well as to England and Wales); and

(b) are amended in accordance with regulations 3 to 6.

Amendments to section 69 of the Immigration Act 2016

3.—(1) Section 69 (transfer of responsibility for relevant children) is amended as follows.

(2) In subsection (1)—

(a) omit "in England";

(b) in paragraph (a), for the words from "provisions of" to "("the relevant provisions")" substitute "relevant provisions".

(3) In subsection (2), for "England" substitute "the same part of the United Kingdom".

(**1**) 2016 c. 19.

(4) In subsection (3), for "this section" substitute "subsection (2)".

(5) After subsection (3) insert—

"(3A) The first authority may make arrangements with another local authority in a different part of the United Kingdom ("the second authority") having the effects mentioned in subsection (3B).

(3B) The effects are that, from the time at which the arrangements have effect in accordance with their terms—

(a) the first authority ceases to have any functions in relation to the relevant child ("C") under the relevant provisions and functions under those provisions may not be conferred on the first authority in relation to C,

(b) C is to be treated as having a like connection with the second authority, or the area of the second authority, as C had immediately before that time with the first authority or the area of the first authority, and

(c) C is to be treated for the purposes of the relevant provisions in relation to both the first authority and the second authority as if the first authority had never had any functions in relation to C.

(3C) Where a statutory provision would, but for this subsection, require the approval of a court or of any other person for arrangements under subsection (3A), that statutory provision does not apply in relation to such arrangements.".

(6) In subsection (4), for "Subsection (3)(b) is" substitute "Subsections (3)(b) and (3B)(b) are".

(7) In subsection (5), after "(3)" insert "or (3B)".

(8) For subsection (8) substitute—

"(8) In this section "local authority"—

(a) in relation to England and Wales has the same meaning as in the Children Act 1989 (see section 105(1) of that Act)(**2**),

(b) in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**3**), and

(c) in relation to Northern Ireland means a Health and Social Care trust established under Article 10 of the Health and Personal Services (Northern Ireland) Order 1991(**4**).

(8A) In this section "the relevant provisions"—

(a) in relation to a local authority in England, means the provisions of or made under Part 3, 4 or 5 of the Children Act 1989 (support for children and families and care, supervision and protection of children), and

(b) in relation to a local authority in Wales, Scotland or Northern Ireland, means any statutory provision which confers functions on, or which are exercisable by, such an authority which correspond, or are similar, to the functions conferred on a local authority in England by or under any of those Parts of that Act.".

(9) After subsection (11) insert—

"(12) In this section "statutory provision" means a provision made by or under—

(a) an Act,

(b) an Act of the Scottish Parliament,

(**2**) 1989 c. 41; the definition of "local authority" in section 105 was amended by the Local Government (Wales) Act 1994 (c. 19).
(**3**) 1994 c. 39.
(**4**) S.I. 1991/194 (NI 1); Health and Social Services trusts established by Article 10 were renamed Health and Social Care trusts by section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1).