SCOTTISH STATUTORY INSTRUMENTS

2001 No. 236

CHILDREN AND YOUNG PERSONS

The Adoption of Children from Overseas (Scotland) Regulations 2001

Made - - - -	*14th June 2001*
Laid before the Scottish Parliament - - - -	*18th June 2001*
Coming into force - -	*2nd July 2001*

The Scottish Ministers, in exercise of powers conferred by sections 9(2) and (3) and 50A(1) of the Adoption (Scotland) Act 1978(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Adoption of Children from Overseas (Scotland) Regulations 2001 and shall come into force on 2nd July 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

"the 1978 Act" means the Adoption (Scotland) Act 1978;

"the 1996 Regulations" means the Adoption Agencies (Scotland) Regulations 1996(**2**);

"adoption panel" has the same meaning as in the 1996 Regulations;

"prospective adopter" means a person habitually resident in the British Islands who at any time brings into the United Kingdom for the purpose of adoption (other than adoption by a parent, guardian or relative) a child who is habitually resident outside those Islands.

(**1**) 1978 c. 28. Section 50A was inserted by the Adoption (Intercountry Aspects) Act 1999 (c. 18), section 14. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) and section 16 of the Adoption (Intercountry Aspects) Act 1999.

(**2**) S.I.1996/3266.

Requirements applying to prospective adopters

3.—(1) The requirements which a prospective adopter must satisfy for the purposes of section 50A(1) of the 1978 Act before bringing a child into the United Kingdom are those prescribed in paragraph (2).

(2) The requirements are that–

(a) the prospective adopter has applied to an adoption agency for assessment of their suitability to be an adoptive parent and has followed such procedure and provided such information to the agency as it may request in order to enable it to undertake such an assessment;

(b) an adoption agency has notified the prospective adopter in writing of a decision to approve them as suitable to be an adoptive parent; and

(c) the Secretary of State for Health has notified the prospective adopter in writing that they are prepared to issue a certificate confirming to the relevant overseas authority that the prospective adopter has been assessed and approved as suitable to be an adoptive parent and that the child will be authorised to reside permanently within the British Islands, if entry clearance is granted and an adoption order is made.

(3) A prospective adopter must also within the period of fourteen days beginning with the date on which they bring the child into the United Kingdom give notice to the local authority within whose area they have their home of–

(a) their intention to apply for an adoption order, in accordance with section 22 of the 1978 Act (**3**); or

(b) their intention not to give the child a home.

(4) In this regulation–

"adoption agency"(**4**) includes an adoption agency within the meaning of section 1 of the Adoption Act 1976(**5**) and Article 3 of the Adoption (Northern Ireland) Order 1987;

"relevant overseas authority" means a person or body performing functions in the country in which the child is habitually resident which correspond to the functions of an adoption agency;

"entry clearance" has the same meaning as in the Immigration Act 1971(**6**)

Duties of an adoption agency and adoption panel functions in respect of a prospective adopter

4.—(1) This regulation applies to–

(a) a local authority to which a prospective adopter has applied for assessment in accordance with regulation 3(2)(a); and

(b) an approved adoption society which has agreed to assess a prospective adopter who has applied to it in accordance with that regulation.

(2) The adoption agency shall assess a prospective adopter in accordance with regulation 10 (duties of adoption agencies in assessing prospective adopters) of the 1996 Regulations.

(3) An adoption panel to which the case of a prospective adopter is referred shall consider the case and make a recommendation to the referring adoption agency as to whether the prospective adopter is suitable to be an adoptive parent, in accordance with regulation 11 (adoption panel functions) of those Regulations.

(**3**) Section 22 was amended by the Children Act 1989 (c. 41) Schedule 10, Part II, paragraph 38.
(**4**) By virtue of section 1(4) of the Adoption (Scotland) Act 1978 "adoption agency" means a local authority or an approved adoption society.
(**5**) 1976 c. 36.
(**6**) 1971 c. 77.