

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4

General

Section 114 - Rules of procedure

363. Subsection (1) provides a power for any matter relating to procedure to be dealt with by court rules. Subsection (2) specifies that any court rules dealing with an application for an adoption order must require notification of certain people (as set out at subsection (3)) of particular aspects of the adoption case set out at subsection (4) and requires notification of the father of the child (if he can be found) who does not have and has never had parental responsibilities and parental rights in respect of the child of the matters at subsection (4)(a) and (b), those being that the application has been made and the date on which and place at which the application will be heard.
364. The people who must be notified, as set out in subsection (3), are anyone whose consent to the making of an adoption order is required and who can be found, or, if no such person can be found, any relative prescribed by rules who can be found; anyone who has consented to the making of an adoption order under section 20 of the 2002 Act (advance consent to adoption) (and who has not withdrawn that consent); and anyone who, if leave were given under section 31(12) of the Act would be entitled to oppose the making of the order.
365. Under subsection (4) the people listed at subsection (3) must be notified that the application has been made, of the date on which the application will be heard and the place where it will be heard; of the fact that the person is entitled to be heard on the application; and that that person does not have to attend the hearing unless they wish to do so, or are requested to do so by the court.
366. By virtue of subsection (6), in the case of an application under section 59 of the Act, rules must require every person who can be found, and whose agreement to the making of the order would be required if the application were for an adoption order, other than a Convention order, to be notified of the matters in subsection (4).