

SCHEDULE

SHERIFF COURT ADOPTION RULES 2009

CHAPTER 2

ADOPTION ORDERS

Duties of reporting officer and curator *ad litem*

12.—(1) The other duties of a reporting officer appointed under rule 11, other than under rule 11(3)(b), prescribed for the purposes of section 108(1)(b) of the 2007 Act are—

- (a) to ascertain the whereabouts of all persons whose consent to the making of an adoption order or order under section 59 of the 2007 Act in respect of the child is required;
- (b) to ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
- (c) in the case of each person who is not a petitioner and whose consent to the making of an adoption order or order under section 59 of the 2007 Act is required or may be dispensed with—
 - (i) to ascertain whether that person understands the effect of the adoption order or order under section 59 of the 2007 Act;
 - (ii) to ascertain whether alternatives to adoption have been discussed with that person;
 - (iii) to confirm that that person understands that he may withdraw his consent at any time before an order is made;
 - (iv) to ascertain whether that person suffers or appears to suffer from a mental disorder within the meaning of section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003⁽¹⁾;
- (d) to report in writing on the matters mentioned in subparagraphs (a) to (c) to the sheriff within 4 weeks from the date of the interlocutor appointing the reporting officer, or within such other period as the sheriff in his discretion may allow.

(2) References in paragraph (1) to “consent” are to consent within the meaning of section 31(2)(a) or 32(1) of the 2007 Act, as the case may be.

(3) A curator *ad litem* appointed under rule 11 must—

- (a) have regard to safeguarding the interests of the child as his paramount duty;
- (b) inquire, so far as he considers necessary, into the facts and circumstances stated in the petition and in the report mentioned in rule 8(4);
- (c) obtain particulars of accommodation in the home of the petitioner and the condition of the home;
- (d) obtain particulars of all members of the household of the petitioner and their relationship to the petitioner;
- (e) in the case of a petition by only one member of a relevant couple within the meaning of section 29(3) of the 2007 Act, ascertain the reason of the other member of the couple for not joining in the application;
- (f) ascertain whether the means and status of the petitioner are sufficient to enable him to maintain and bring up the child suitably;

(1) 2003 asp 13.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (g) ascertain what rights or interest in property the child has;
 - (h) establish that the petitioner understands the nature and effect of an adoption order and in particular that the making of the order will render him responsible for the maintenance and upbringing of the child;
 - (i) where appropriate, ascertain when the mother of the child ceased to have the care and possession of the child and to whom care and possession was then transferred;
 - (j) ascertain whether any payment or other reward in consideration of the adoption has been given or agreed upon;
 - (k) ascertain whether the child is subject to a supervision requirement under section 70 of the 1995 Act;
 - (l) ascertain whether the life of the child has been insured and if so for what sum;
 - (m) ascertain whether it may be in the interests of the welfare of the child that the sheriff should make the adoption order or order under section 59 of the 2007 Act subject to particular terms and conditions or require the petitioner to make special provision for the child and, if so, what provision;
 - (n) where the petitioner is not ordinarily resident in the United Kingdom, establish whether a report has been obtained on the home and living conditions of the petitioner from a suitable agency in the country in which he is ordinarily resident;
 - (o) establish the reasons of the petitioner for wishing to adopt the child;
 - (p) establish the religious persuasion, racial origin and cultural and linguistic background of the child and of the petitioner;
 - (q) assess the considerations which might arise where the difference in ages as between the petitioner and the child is greater or less than the normal difference in age between parents and their children;
 - (r) consider such other matters, including the personality of the petitioner and, where appropriate, that of the child, which might affect the suitability of the petitioner and the child for the relationship created by adoption and affect the ability of the petitioner to bring up the child;
 - (s) ascertain whether it would be better for the child that the court should make the order than it should not make the order;
 - (t) establish whether the adoption is likely to safeguard and promote the welfare of the child throughout his life;
 - (u) ascertain from the child whether he wishes to express a view and, where a child indicates his wish to express a view, ascertain that view.
- (4) Subject to paragraph (5) the curator *ad litem* must report in writing on the matters mentioned in paragraph (3) to the sheriff within 4 weeks from the date of the interlocutor appointing the curator, or within such other period as the sheriff in his discretion may allow.
- (5) Subject to any order made by the sheriff under rule 17(1)(a), the views of the child ascertained in terms of paragraph (3)(u) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.