
 STATUTORY INSTRUMENTS

1984 No. 988 (S. 95)

CHILDREN AND YOUNG PERSONS

The Adoption Agencies (Scotland) Regulations 1984

<i>Made - - - -</i>	12th July 1984
<i>Laid before Parliament</i>	18th July 1984
<i>Coming into Operation</i>	1st September 1984

In exercise of the powers conferred on me by sections 3(1), 9 and 60(1) of the Adoption (Scotland) Act 1978(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation, commencement and extent

1.—(1) These regulations may be cited as the Adoption Agencies (Scotland) Regulations 1984 and shall come into operation on 1st September 1984.

(2) These regulations shall apply to Scotland only.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Adoption (Scotland) Act 1978;

“adoption agency” means a local authority or an approved adoption society within the meaning of the Act;

“adoption panel” means a panel appointed in accordance with regulation 11;

“court” means an authorised court as defined by section 56 of the Act;

(2) In these regulations any reference to an adoption order shall include reference to an order under section 49 of the Act and any reference to a person proposing to adopt a child shall include reference to a person proposing to apply for such an order.

(3) In these regulations any reference to a numbered regulation or schedule shall be construed as a reference to the regulation or schedule bearing that number in these regulations.

Approved adoption societies

3. An application to the Secretary of State under section 3 of the Act for approval as an adoption society shall be made in writing and shall provide information about the applicant as to the matters specified in sub-sections (3) to (5) of that section.

4. An unincorporated body is prohibited from applying to the Secretary of State for his approval under section 3 of the Act to its acting as an adoption society.

(a) 1978 c.28.

5. An approved adoption society shall notify the Secretary of State in writing of any change in its name or in the address of its registered or head office within one month after such change.

6. An approved adoption society shall prepare an annual report on the exercise of its functions in relation to adoption and shall provide the Secretary of State with a copy of such a report as soon as possible after the expiry of the year to which the report relates.

7. As soon as possible after the end of each financial year of an approved adoption society, the society shall provide the Secretary of State with an abstract of the society's accounts for that year, signed on behalf of the society and certified by its auditors.

8. An approved adoption society which intends to cease to act as an adoption society shall notify the Secretary of State in writing of such intention at least one month before the intended date of such cessation.

9. An approved adoption society which has ceased to act as an adoption society shall notify the Secretary of State in writing that it has ceased so to act, as soon thereafter as is reasonably practicable.

Appointment of medical adviser

10. An adoption agency shall appoint such number of registered medical practitioners as it considers necessary for the purpose of providing it with medical advice in connection with the exercise of its functions.

Appointment and composition of adoption panels

11. An adoption agency shall appoint an adoption panel for the purpose of considering and advising on the matters specified in regulation 18 and may appoint such additional adoption panels as it considers necessary.

12. An adoption agency shall satisfy itself that the numbers, qualifications or experience of individual members of an adoption panel will enable it effectively to discharge its functions under regulation 18.

13.—(1) An adoption panel shall consist of not less than 6 persons each of whom shall be competent to assess whether any recommendation in relation to a child to be made by virtue of regulation 18(1) is likely to promote the welfare of the child, and shall include at least one man and at least one woman.

(2) The persons appointed to an adoption panel shall include the person nominated as the medical adviser to the adoption agency under regulation 10 (or one of them if more than one medical adviser is appointed).

(3) An adoption panel shall make the recommendations specified in regulation 18 only when at least 3 of its members, excluding any medical adviser appointed under paragraph 2 above, meet as a panel.

Application of regulations to certain adoption agencies

14. Where an adoption agency operates only for the purpose of putting persons into contact with other adoption agencies and for the purpose of putting agencies into contact with each other or for either of such purposes, regulations 11, 12 and 13 shall not apply to such an agency.

*Duties of adoption agencies in providing information to each parent or guardian***15.—(1)** An adoption agency—

(a) shall secure that each parent or guardian of a child is provided with a memorandum

either—

(i) in the form set out in Schedule 1 where it is proposed to make arrangements for adoption of the child;

or—

(ii) in the form set out in Schedule 2 where it is proposed to make an application for a freeing order under section 18 of the Act.

(b) shall ensure that each parent or guardian of the child signs and returns to the agency a certificate in the form set out in Schedule 1 or 2 as the case may be, or a form to the like effect, certifying that he has read and understood that memorandum;

(c) shall at the request of the parents or guardian provide them with the names and addresses of adoption agencies, if any are available, which might meet their wishes regarding the child's upbringing in a particular religious persuasion.

(2) Where the identity of the father of an illegitimate child is known to the adoption agency, it shall so far as it considers it reasonably practicable and in the interests of the child—

(a) carry out in respect of the father the requirements of paragraph 1(a) and (b) as if they applied to him, unless the agency is satisfied that another adoption agency has so complied with those requirements;

(b) obtain in respect of the father the information required under Schedule 3; and

(c) ascertain so far as possible whether he intends to apply for custody of the child.

Duties of adoption agencies in making arrangements for freeing for adoption

16. An adoption agency shall not make application for an order under section 18 of the Act (freeing a child for adoption) unless—

(a) the adoption agency has, so far as is reasonably practicable, ascertained the particulars set out in Part I of Schedule 3;

(b) the adoption agency has obtained a report prepared within the previous 12 months by a fully registered medical practitioner as to the health of the child;

(c) the adoption agency has prepared a written report containing its observations on the matters referred to in this regulation, and has passed that report together with all information obtained by it by virtue of this regulation to the adoption panel or to another adoption agency; and

(d) the adoption agency, after considering all the information obtained in pursuance of this regulation and having regard to the recommendation of the adoption panel under regulation 18 and all other circumstances, has concluded in accordance with section 6 of the Act (duty to promote welfare of child) that it is appropriate for the child to be placed for adoption.

Duties of adoption agencies in making arrangements for adoption

17.—(1) An adoption agency shall not place or secure the placing of a child in the care and possession of any person proposing to adopt the child until—

- (a) the adoption agency has so far as is reasonably practicable, ascertained the particulars set out in Schedule 3;
- (b) the adoption agency has obtained a report prepared within the previous 12 months by a fully registered medical practitioner as to the health of the child;
- (c) the adoption agency has obtained a report prepared within the previous 12 months by a fully registered medical practitioner as to the health of each person proposing to adopt the child;
- (d) that person has been interviewed by or on behalf of the adoption agency;
- (e) the adoption agency has satisfied itself by a visit on its behalf that any premises in Great Britain within which that person intends that the child shall have his home are satisfactory;
- (f) the adoption agency has made enquiries to satisfy itself that there is no reason to believe that it would be detrimental to the welfare of the child for him to be kept by that person and by that person in those premises and has inquired of every regional or islands council in whose area those premises are situated whether that local authority has reason to believe that it would be detrimental to the welfare of the child—
 - (i) for him to be kept by that person in those premises; or
 - (ii) for the proposed adoption to proceed.
- (g) the adoption agency has prepared a written report containing its observations on the matters referred to in this regulation and has passed that report together with all information obtained by it by virtue of this regulation to the adoption panel or to another adoption agency;
- (h) the adoption agency, has concluded in accordance with section 6 of the Act (duty to promote welfare of child) that the child should be so placed.

(2) The adoption agency shall ensure that such laboratory tests as are considered to be clinically necessary are carried out on the child and shall arrange that a report based thereon is obtained from a fully registered medical practitioner unless such tests have already been carried out and the findings are known to the agency.

(3) Wherever practicable any report in connection with paragraph (2) above shall be included in the report obtained by the adoption agency under paragraph 1(b) of this regulation.

Functions of adoption panels

18.—(1) Subject to paragraphs (2), (3) and (4) an adoption panel shall consider the case of every child, prospective adopter, and proposed placement referred to it by the adoption agency and shall make recommendations to the agency on such of the following matters as may be appropriate—

- (a) whether adoption is in the best interests of a child and if the panel recommends that it is whether an application under section 18 of the Act should be made to free the child for adoption;

- (b) whether a prospective adopter is suitable to be an adoptive parent; and
 - (c) whether a prospective adopter would be a suitable adoptive parent for a particular child.
- (2) An adoption panel may make the recommendations specified in paragraph (1) at the same time or at different times but it shall make the recommendation specified in paragraph (1)(c) in respect of a particular child and prospective adopter only if—
- (a) at the meeting of the panel at which that recommendation is to be made a recommendation is also made that adoption is in the best interests of the child; or
 - (b) an adoption agency decision has been made in accordance with regulation 19(1) that adoption is in the best interests of the child; and
 - (c) in either case—
 - (i) at the meeting of the panel at which the recommendation specified in paragraph (1)(c) is to be made a recommendation is also made that the prospective adopter is suitable to be an adoptive parent; or
 - (ii) an adoption agency decision has been made in accordance with regulation 19(1) that the prospective adopter is suitable to be an adoptive parent.
- (3) In considering what recommendations to make the panel shall have regard to the duties imposed upon the adoption agency by sections 6 and 7 of the Act (duty to promote welfare of child and religious upbringing of adopted child) and shall as the case may be—
- (a) consider and take into account all the information and reports passed to it by virtue of regulation 16(c) or 17(1)(g) and in accordance with paragraph 4 below;
 - (b) request the adoption agency to obtain any other relevant information which the panel considers necessary;
 - (c) obtain legal advice in relation to each case.
- (4) An adoption agency may request an adoption panel to consider and advise on any other matters relevant to the agency's performance of its functions under the Act and these regulations.

Adoption agency decisions and notifications

19.—(1) An adoption agency shall make a decision on a matter referred to in regulations 18(1)(a), (b) or (c) only after taking into account the relevant recommendation of the adoption panel.

(2) As soon as possible after making such a decision the adoption agency shall, as appropriate, notify in writing—

- (a) the parents of the child, including the father of an illegitimate child where the agency considers this to be in the child's interests, or the guardian of the child if their whereabouts are known to the agency, of its decision as to whether it considers adoption to be in the best interests of the child;
- (b) the persons to be notified under sub-paragraph (a), of its decision as to whether an application under section 18 of the Act should be made to free the child for adoption;

- (c) the prospective adopter of its decision as to whether it considers him to be suitable to be an adoptive parent; and
- (d) the prospective adopter of its decision as to whether he would be suitable as such for a particular child.

Placement for adoption

20.—(1) Where an adoption agency has decided in accordance with regulation 19(1) that a prospective adopter would be a suitable adoptive parent for a particular child it shall provide the person proposing to adopt the child with—

- (a) written information about the child's background, parentage, health and mental and emotional development;
- (b) written advice about—
 - (i) the need to tell the child about his adoption and origins;
 - (ii) the provisions in the Act relating to the right of adopted persons to obtain information from the Register of Births under section 45(5) of the Act, and the availability of counselling services for adopted persons under section 45 of the Act; and
 - (iii) the availability of counselling services on any problems relating to the adoption.
- (c) A copy of a report based on the medical findings on that child obtained under regulation 17.

(2) The adoption agency shall, in connection with the placement of a child for adoption with a prospective adopter—

- (a) notify the regional or islands council in whose area the prospective adopter resides (if different from the agency making the placement) in writing of the placement with particulars of the placement;
- (b) notify the education authority in whose area the prospective adopter resides in writing of the placement with particulars of the placement if the child is of compulsory school age within the meaning of section 31 of the Education (Scotland) Act 1980 (a), and such notification shall take place before the placement if the adoption agency's medical adviser considers the child to have a problem of medical significance or special educational needs;
- (c) notify the local health authority in whose area the prospective adopter resides in writing of the placement with particulars of the placement, and such notification shall take place before the placement if the adoption agency's medical adviser considers the child to have a problem of medical significance to his future care;
- (d) send a written report of the child's health history and current state of health to the prospective adopter's registered medical practitioner before the proposed placement, together with particulars of the proposed placement;
- (e) notify in writing the parents of the child, including the father of an illegitimate child where the agency considers this to be in the child's interests, or the guardian of the child, that the child has been placed for adoption, but no such notification shall be given to a person who has made a declaration under section 18(7) or 19(4) of the Act (declaration as to no further involvement with child);

(a) 1980 c.44.

- (f) ensure that the child is visited on its behalf within one week of his placement with a prospective adopter and thereafter on such other occasions as the adoption agency considers necessary in order to supervise the child's well-being as long as the child and the prospective adopter remain domiciled in Great Britain or until an adoption order under section 12 of the Act has been made by the court in favour of the prospective adopters;
- (g) ensure that written reports are produced reporting on the said visits.

Progress reports under section 19 of the Act

21. Where parental rights and duties relating to a child who is in Great Britain have been transferred from one adoption agency to another by virtue of an order under section 21 of the Act, the agency in which those rights and duties vest shall provide such information as the agency which obtained the order under section 18 of the Act considers necessary for it to comply with its duty under section 19(2) and (3) of the Act (progress reports to former parent).

Review of case where no placement made within 6 months of freeing for adoption

22. Where a child has been freed for adoption by virtue of an order under section 18 of the Act and the child has not been placed for adoption in accordance with the Act and these regulations after 6 months from the making of that order, the adoption agency in which parental rights and duties are then vested by virtue of section 18 or 21 of the Act shall review that child's case forthwith to determine why no placement has been made and what action, if any, should be taken to safeguard and promote his welfare. Thereafter the agency shall review the case at intervals of not more than 6 months until the child has been placed for adoption.

Provision of information to courts by adoption agencies

- 23.** Where application is made to a court—
- (a) by an adoption agency for an order under section 18 of the Act freeing a child for adoption; or
 - (b) by a person proposing to adopt a child and with whom the child has been placed by an adoption agency under the Act and in accordance with these regulations;

the adoption agency shall provide a report to the court to which application has been made giving such information on the background and circumstances of the child, his family and (where appropriate) the persons proposing to adopt him as it has been able to discover in accordance with these regulations and any other matters relevant to the operation of section 6 of the Act (duty to promote welfare of child) or as may be required by the court in accordance with section 21 of the Act (reports to courts on making of adoption orders).

Confidentiality and preservation of case records

24.—(1) Subject to regulation 25 any information obtained or recommendations or decisions made by virtue of these regulations shall be treated by the adoption agency as confidential.

(2) Where a case record has been set up by an adoption agency in respect of a child or a prospective adopter any report, recommendation or decision

made by that agency by virtue of these regulations in respect of that child or that prospective adopter shall be placed on the case record relating to that child or, as the case may be, that prospective adopter, and any case records set up by the agency together with the indexes to them shall be kept in a place of special security.

(3) Subject to regulation 27(2), an adoption agency shall preserve the indexes to all its case records and the case records in respect of those cases in which an adoption order is made in a place of special security for at least 75 years and shall preserve other case records in a place of special security for so long as it considers appropriate; and such case records and indexes may be preserved on microfilm or such other system as reproduces the total contents of any such record or index.

Access to case records and disclosure of information

25.—(1) Subject to paragraph (3), an adoption agency shall provide such access to its case records and the indexes to them and disclose such information in its possession, as may be required—

- (a) to those holding an inquiry under section 99 of the Children Act 1975 **(a)** (inquiries), for the purposes of such an inquiry;
- (b) to the Secretary of State;
- (c) to the Commissioner for Local Administration in Scotland appointed under section 24 of the Local Government (Scotland) Act 1975 **(b)** for the purpose of any investigation conducted under Part II of the Act;
- (d) to the persons and authorities referred to in regulations 19, 20 and 21 to the extent specified in those regulations; or
- (e) to a court under regulation 23 to the extent specified in that regulation;
- (f) to a curator ad litem or reporting officer appointed under rules made pursuant to section 58 of the Act (curator ad litem and reporting officer) for the purpose of the discharge of his duties in that behalf.

(2) Subject to paragraph (3), an adoption agency may provide such access to its case records and the indexes to them and disclose such information in its possession, as it thinks fit—

- (a) for the purposes of carrying out its functions as an adoption agency; and
- (b) to a person who is authorised in writing by the Secretary of State to obtain information for the purposes of research.

(3) A written record shall be kept by an adoption agency of any access provided or disclosure made by virtue of this regulation.

26. Where an adopted person who has attained the age of 17 years, if in Scotland, or 18 years, if in England or Wales, applies for counselling under section 45(6) of the Act or section 20A(3) of the Adoption Act 1958 **(c)**, an adoption agency may disclose information which it has relating to that person's adoption to—

- (a) that adopted person;
- (b) the local authority for the area in Scotland where the adopted person lives, if he has applied to them for counselling;

(a) 1975 c.72.

(b) 1975 c.30.

(c) 1958 c.5 (7 & 8 Eliz.2); section 20A was inserted by section 26(2) of the Children Act 1975.

- (c) the Registrar General for England and Wales;
- (d) the local authority for the area in England or Wales where the adopted person is, if he has applied to them for counselling;
- (e) the local authority for the area in England or Wales where the court sat which made the order relating to the adopted person, if he has applied to that authority for counselling.

Transfer of case records

27.—(1) Subject to paragraphs (2) and (3) an adoption agency may transfer a copy of a case record (or part thereof) to another adoption agency when it considers this to be in the interests of a child or prospective adopter to whom the record relates, and a written record shall be kept of any such transfer.

(2) An approved adoption agency which intends to cease to act or exist as such shall forthwith either transfer its case records to another adoption agency having first obtained the Secretary of State's approval for such transfer, or transfer its case records—

- (a) to the local authority in whose area the society's head office is situated; or
- (b) in the case of an agency which amalgamates with another approved adoption agency to form a new approved adoption agency to the new agency.

(3) An adoption agency to which case records are transferred by virtue of paragraph 2(a) or (b) shall notify the Secretary of State in writing of such transfer.

Revocations

28. The Adoption Agencies (Scotland) Regulations 1982 (a), as amended by the Adoption Agencies (Scotland) (Amendment) Regulations 1982 (b), are hereby revoked.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
12th July 1984.

Regulation 15

SCHEDULE 1

MEMORANDUM

ADOPTION OF CHILDREN

This memorandum is addressed to the parent or guardian of a child who is about to be legally adopted. This includes any person claiming to be the father of an illegitimate child and could for example include a person who has an order for custody of the child under section 2 of the Illegitimate Children (Scotland) Act 1930 (a) or under section 9 of the Guardianship of Minors Act 1971 (b). If any part of this memorandum is not clear to you, you should consult the adoption agency. It is open to you to seek advice from the agency on any matter connected with the adoption of your child should the need arise. This memorandum is intended for guidance only and is not to be regarded as an authoritative interpretation of the law.

1. If the court makes an adoption order, your rights and duties (including financial obligations) as a parent or guardian will be transferred to the adopters and they will become in law your child's parents. You will then have no further right to see your child or to have your child returned to you. If the adopters live abroad they will probably take your child abroad with them after obtaining an order.

2. If you wish your child to be brought up in a particular religious faith you should inform the adoption agency (which may be a local authority social work department or voluntary society). If, however, you agree to adoption it must be unconditional and the agency is obliged to give first consideration to the welfare of the child. At your request, the agency will be able to tell you if there are any adoption societies which specialise in arranging adoptions with families of a particular faith and if so they will be able to provide you with the appropriate names and addresses if you wish such a society to arrange for your child's adoption.

3. The person proposing to adopt your child has to apply to a court for an adoption order. Before making an order, the court will require to know whether you (and any other parent or guardian of the child) freely and in full understanding of what is involved, agree unconditionally to your child being adopted. The court will also have enquiries made to see whether it would be in the interests of your child that he should be adopted by the proposed adopter.

4. You will be asked to sign a form of agreement which can be shown to the court as evidence of your agreement. The proposed adopters will either be referred to on this form by a number or they will be named. If they are referred to by a number it will not be possible to tell you who they are. The agency arranging the adoption will explain the reasons for this and will be glad to give you information about the personal circumstances and interests of the proposed adopters and to answer your questions about them as far as possible. Do not sign the form of agreement unless you are willing that your child should be adopted into this family.

5. The court cannot make an adoption order without your agreement unless it dispenses with your agreement on certain grounds. The grounds on which a court can dispense with a parent's agreement are that he or she—

- (a) cannot be found or is incapable of giving agreement (for instance by reason of mental disorder);
- (b) is withholding his or her agreement unreasonably;
- (c) has persistently failed without reasonable cause to discharge the parental duties in relation to the child;
- (d) has abandoned or neglected the child;
- (e) has persistently ill-treated the child; or
- (f) has seriously ill-treated the child and rehabilitation of the child within his or her household is unlikely.

(a) 1930 c.33.

(b) 1971 c.3.

6. If you sign the form of agreement and then before the adoption order is made you wish to withdraw your agreement, you should inform the court. The proposed adopters are entitled to refuse to return your child to you, whenever an application for an adoption order has been made to the court, unless you obtain the permission of the court.

7. You are not allowed to receive any money for giving your agreement.

Birth records

8. When an adoption order is made, the Registrar General for Scotland makes an entry in the Adopted Children Register showing the adopters as the parents of your child. A full extract and an abbreviated certificate of the entry in that Register (which takes the place of your child's original birth certificate) can be obtained by the adopters from General Register Office, New Register House, Edinburgh on payment of a fee. When your child reaches the age of 17, he will be entitled to see his original entry in the birth register and to purchase a certificate of that entry if he so wishes. This means that when he is 17 he will be able to find out his original names as well as your name and your address when you registered his birth. If you should so wish, the adoption agency will discuss with you the possible implications this may have for you in the future.

Certificate

TO: (Name of Adoption Agency)

I hereby certify that I have received from you a memorandum headed "Adoption of Children" from which I have detached this certificate of acknowledgement and that I have read the memorandum and understood it.

Signature

Address

.....

Date

SCHEDULE 2

Regulation 15

MEMORANDUM

FREEING OF CHILDREN FOR ADOPTION

This memorandum is addressed to the parent or guardian of a child where an application is to be made to the court requesting that the child be "freed for adoption". This includes any person claiming to be the father of an illegitimate child and could for example include a person who has an order for custody of the child under section 2 of the Illegitimate Children (Scotland) Act 1930 or under section 9 of the Guardianship of Minors Act 1971. If any part of this memorandum is not clear to you, you should consult the adoption agency. It is open to you to seek advice from the agency on any matter connected with the adoption of your child should the need arise. This memorandum is intended for guidance only and is not to be regarded as an authoritative interpretation of the law.

1. If the court makes an order (called a “freeing order”):
 - your rights and duties as a parent or guardian will be transferred to the adoption agency (which may be a local authority social work department or voluntary society) and they will become in law the child’s guardians;
 - the adoption agency will then proceed to make arrangements for the child to be placed for adoption as quickly as possible;
 - you will no longer be required to contribute financially to the upkeep of your child;
 - the person wishing to adopt your child will apply to the court in due course and the court, if on investigation it considers that this is in your child’s best interests, can make an adoption order without being required to consult you first. If the adopters live abroad they will probably take your child with them after obtaining an adoption order.
2. If you wish your child to be brought up in a particular religious faith you should inform the adoption agency and they will take your wishes into account in selecting new parents for him as far as possible. If, however, you agree to your child being adopted this must be unconditional and the agency is obliged to give first consideration to the welfare of the child. At your request, the agency will be able to tell you if there are any adoption societies which specialise in arranging adoptions with families of a particular faith and if so they will be able to provide you with the appropriate names and addresses if you wish such a society to arrange for your child’s adoption.
3. The adoption agency has to apply to a court for a freeing order. Before making an order, the court will require to know whether you (and any other parent or guardian of the child) freely and with full understanding of what is involved, agree unconditionally to your child being adopted. The court will also have enquiries made to see whether it would be in the interests of the child for him to be freed for adoption.
4. You will be asked to sign a form of agreement which can be shown to the court as evidence of your agreement. Do not sign the form of agreement unless you are willing that the child should be adopted and you are also willing to give up your right to be party to the court proceedings when application is made for your child to be formally adopted in due course.
5. The court cannot make a freeing order without your agreement unless it dispenses with your agreement on certain grounds. The grounds on which a court can dispense with a parent’s agreement are that he or she—
 - (a) cannot be found or is incapable of giving agreement (for instance by reason of mental disorder);
 - (b) is withholding his or her agreement unreasonably;
 - (c) has persistently failed without reasonable cause to discharge the parental duties in relation to the child;
 - (d) has abandoned or neglected the child;
 - (e) has persistently ill-treated the child; or
 - (f) has seriously ill-treated the child and rehabilitation of the child within his or her household is unlikely.
6. If you sign the form of agreement and before the freeing order is made you wish to withdraw your agreement, you should inform the court, but if the child is being cared for by or on behalf of the adoption agency, they are entitled to refuse to return your child to you, whenever an application for a freeing order has been made to the court, unless you obtain the permission of the court.
7. You are not allowed to receive any money for giving your agreement.

Declaration by a former parent

8. You will also be asked to decide whether you wish to be involved in any future questions concerning your child’s adoption. If you decide that you do not, the adoption agency will ask you to sign a form declaring this. The form, called a

“Declaration by a Former Parent”, will then be given to the court, so that your wishes will be recorded by the court when the freeing order is made. If you make a “Declaration” you will not be asked to consent to adoption when the adoption agency finds suitable adopters; nor will you be advised of the outcome of any adoption application.

Your rights if you do not sign a “Declaration”

9. If you do not sign a “Declaration”, you have the right to be informed about future developments in relation to your child. It is likely that the adoption agency will tell you as soon as an adoption order is made. The agency must write to you within one year and 2 weeks after the freeing order has been made, to tell you what has happened to your child — whether he has been adopted (if you have not already been told of this), or has been placed for adoption but not yet adopted, or is still waiting to be placed with adopters. Thereafter the adoption agency has a duty to continue to notify you of any changes in your child’s placement until he is adopted.

10. If the adoption agency has not been able to place your child with adopters within the 12-month period, you have the right to ask the court to revoke the freeing order. If the court agrees to do this as being in the best interests of your child, all the rights and duties of a parent or guardian are returned to whoever held them immediately before the freeing order was made or before they were assumed by a local authority or voluntary organisation. (If you are not clear how this will affect you and your child you should ask the adoption agency.) Similarly any duties relating to payments towards your child’s maintenance which were extinguished by the freeing order will be automatically revived on the date when the court revokes that order. During the period when the court is considering your application the adoption agency will not be able to place your child for adoption without the court’s permission.

11. If the court does not believe it to be in your child’s interests for the freeing order to be revoked, you will not be able to make any further application for revocation unless the court permits this because of a change in circumstances or for any other reason. In such circumstances the adoption agency will continue with its arrangements to find an adoptive home for the child and will not be required to provide you with any further information about his progress or situation.

Birth records

12. When an adoption order is made, the Registrar General for Scotland makes an entry in the Adopted Children Register showing the adopters as the parents of the child. A full extract and an abbreviated certificate of the entry in that Register (which takes the place of the child’s original birth certificate) can be obtained by the adopters from General Register Office, New Register House, Edinburgh on payment of a fee. When the child reaches the age of 17, he will be entitled to see his original entry in the birth register and to purchase a certificate of that entry if he so wishes. This means that when he is 17 he will be able to find out his original names as well as your name and your address when you registered his birth. If you should so wish, the adoption agency will discuss with you the possible implications this may have for you in the future.

Certificate

TO: (Name of Adoption Agency)

I hereby certify that I have received from you a memorandum headed “Freeing of Children for Adoption” from which I have detached this certificate of acknowledgement and that I have read the memorandum and understood it.

Signature

Address

.....

Date

Regulations 15, 16 and 17

SCHEDULE 3

PART I

PARTICULARS RELATING TO THE CHILD

1. Name, sex, date and place of birth and address.
2. Whether legitimate or illegitimate at birth and, if illegitimate, whether subsequently legitimated.
3. Nationality and race.
4. Physical description.
5. Details of any court orders relating to the child's custody, maintenance or local authority resolutions relating to the parental rights and powers in respect of the child.
6. Details of any current or previous supervision requirements relating to the child imposed by children's hearings.
7. Details of any brothers and sisters, including dates of birth, addresses, arrangements in respect of care and custody and whether any brother or sister is also being considered for adoption.
8. Extent of access by all members of the child's natural family, including if the child is illegitimate, his father; including details of any court order relating to access.
9. Religious denomination of the child including details of any baptism, confirmation or equivalent ceremonies.
10. Personality and social development.
11. If the child has been in the care of a local authority or voluntary organisation, details (including dates) of placements, including particulars of the persons with whom the child has had his home and observations on the care provided.
12. Names and addresses of schools attended and educational attainments.
13. Any special needs in relation to the physical or mental health of the child and his emotional and behavioural development, and whether he is the subject of a record of special educational needs under the Education (Scotland) Act 1980 (a), as amended.
14. The child's wishes and feelings in relation to adoption and, if relevant, an application under section 18 of the Act, including any wishes in respect of religious and cultural upbringing.
15. Whether the child has any right to or interest in any property.
16. Whether an insurance policy for the payment on the death of the child of money for funeral expenses has been effected.
17. A comprehensive medical report signed by a fully registered medical practitioner, including such details as the medical adviser to the agency considers necessary in the circumstances of the child.
18. Any other relevant information which the agency considers may assist the panel.

(a) 1980 c.44.

PART II

PARTICULARS RELATING TO EACH NATURAL PARENT, INCLUDING WHERE APPROPRIATE THE FATHER OF AN ILLEGITIMATE CHILD

1. Name, date and place of birth, address.
2. Marital status and date and place of marriage (if any).
3. Nationality and race.
4. Past and present relationship (if any) with other natural parent including an assessment of its stability.
5. Name, addresses and brief details of the personal circumstances of parents of the natural parents and any of the natural parents' brothers and sisters, with their ages or ages at death.
6. Physical description.
7. Personality.
8. Religion, including any wishes in respect of the child's religious upbringing which each parent has in respect of the child's adoption.
9. Educational attainments.
10. Past and present occupations.
11. Whether the mother agrees to the child being adopted and, if not, her reasons for not agreeing.
12. Whether the father agrees to the child being adopted, and, if not, his reasons for not agreeing.
13. If the child is illegitimate, whether the father has custody of the child by a court order under the Guardianship of Children (Scotland) Acts 1886 to 1973 (a) or the Illegitimate Children (Scotland) Act 1930 or the Guardianship of Minors Act 1971.
14. Whether there is any history of genetically transmissible or other significant disease in the family history of either the father's or mother's family.
15. A comprehensive medical report signed by a fully registered medical practitioner including such details as the medical adviser to the agency considers necessary in regard to each parent.
16. Any other relevant information which the agency considers may assist the panel.

PART III

PARTICULARS RELATING TO A GUARDIAN

1. Name and address.
2. Particulars referred to in paragraphs 8 and 16 of Part II.
3. Whether the guardian agrees to the child being adopted, and if the guardian does not agree, his reasons for not agreeing.

PART IV

PARTICULARS RELATING TO EACH PROSPECTIVE ADOPTER

1. Name, date and place of birth.
2. Address.

(a) 1886 c.27, 1925 c.45 and 1973 c.29.

3. Whether the proposed adopter has his home in Great Britain and, if not, the address at which he has his home, if different from 2 above.
4. Whether the proposed adopter is domiciled in the UK (ie England, Wales, Scotland, Northern Ireland) the Channel Islands or the Isle of Man, and, if not, the country in which he is domiciled.
5. If the proposed adopter intendeds to apply for an order under section 49 of the Act, whether he intends to adopt the child in law or in fact in the country in which he is domiciled.
6. If there are two proposed adopters—
 - (a) the date and place of the proposed adopters' marriage;
 - (b) whether either proposed adopter has previously been married;
 - (c) if so, whether that marriage was dissolved or annulled;
 - (d) the grounds for the divorce or annulment;
 - (e) whether there are any financial commitments in respect of a former spouse and/or children of a previous marriage.
7. If there is only one proposed adopter, whether that person is married; if so why the spouse does not join in the application, and in particular whether the spouse—
 - (a) cannot be found;
 - (b) is separated and living apart, and the separation is likely to be permanent; or
 - (c) by reason of physical or mental ill-health is incapable of joining in the application.
8. Details of other members of the prospective adopter's household (including any children of the prospective adopter even if they are not resident in the household).
9. Details of the prospective adopter's parents and any of the prospective adopter's brothers or sisters, with their ages or ages at death.
10. Attitudes to adoption of such other members of the prospective adopter's household and of such of the other members of the prospective adopter's family as the agency considers appropriate.
11. Personality.
12. Previous experience of caring for children as step-parent, foster parent, child-minder or prospective adopter and assessment of ability in this respect together where appropriate with assessment of ability in bringing up own children.
13. Whether the prospective adopter has previously—
 - (a) notified a local authority of his intention to adopt a child;
 - (b) applied to an adoption agency with a view to adopting a child;
 - (c) had in his care and possession a foster child within the meaning of section 2 of the Children Act 1958 (a) or section 2 of the Foster Children Act 1980 (b) who has been removed under section 7 or 12 respectively of those Acts;
 - (d) been prohibited from keeping a foster child under section 4 of the Children Act 1958 or section 10 of the Foster Children Act 1980;
 - (e) had in his care and possession a protected child who has been removed under section 43 of the Adoption Act 1958, or section 34 of the Act;
 - (f) been prohibited from keeping a protected child;
 - (g) been convicted of an offence mentioned in Schedule 1 to the Criminal Procedure (Scotland) Act 1975 (c) or of an offence under Schedule 1 to the Children and Young Persons Act 1933 (d) ;

(a) 1958 c.65.

(b) 1980 c.6.

(c) 1975 c.21.

(d) 1933 c.12.

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- (h) had parental rights in respect of his own children assumed by a local authority under section 16 of the Social Work (Scotland) Act 1968 (a) , section 2 of the Children Act 1948 (b) or section 3 of the Child Care Act 1980 (c) ;
- (i) been refused registration under the Nurseries and Child-Minders Regulation Act 1948 (d) .
Details of any such occurrence.
14. Assessment of ability to bring up an adopted child throughout his childhood.
 15. Religion.
 16. Educational attainments.
 17. Past and present occupations and interests.
 18. Details of financial circumstances and comments on the living standards of the household.
 19. Opinion of agency as to whether any adoption allowance should be considered.
 20. Reasons for wishing to adopt a child and extent of understanding of the nature and effect of adoption.
 21. Names and addresses of two referees who will give personal references on the prospective adopter.
 22. Name and address of the prospective adopter's registered medical practitioner.
 23. A comprehensive medical report on the prospective adopter signed by a fully registered medical practitioner, including such details as the medical adviser to the agency considers necessary in the circumstances of each prospective adopter.
 24. Any other relevant information which the agency considers may assist the panel.

(a) 1968 c.49.

(b) 1948 c.43.

(c) 1980 c.5.

(d) 1948 c.53.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make provision with respect to adoption agencies in Scotland. They supersede and replace with amendments the Adoption Agencies (Scotland) Regulations 1982. The amendments take account of changes resulting from the implementation on 1 September 1984 of certain provisions of the Children Act 1975, as consolidated by the Adoption (Scotland) Act 1978, dealing with adoption and freeing for adoption.

The Regulations make provision with respect to the approval of adoption societies by the Secretary of State under section 3 of the 1978 Act, the prohibition of unincorporated bodies from applying for such approval, and related matters (regulations 3 to 9). They require adoption agencies to appoint medical advisers (regulation 10) and to establish adoption panels, and they specify the functions of such panels (regulations 11 to 13 and 18). They prescribe the procedures to be followed by adoption agencies in relation to children, parents and prospective adopters in dealing with adoption and freeing for adoption (regulations 14-17, 19-23 and the Schedules).

The Regulations also make provision for the confidentiality and preservation of case records, access to case records, and disclosure of information (regulations 24-26); and for the transfer of case records between adoption agencies (regulation 27).

SI 1984/988
ISBN 0-11-046988-7

