
STATUTORY INSTRUMENTS

1997 No. 291

Act of Sederunt (Child Care and Maintenance Rules) 1997

CHAPTER 2

ADOPTION OF CHILDREN

PART I

GENERAL

Interpretation

2.1 In this Chapter, unless the context otherwise requires—

“the Act” means the Adoption (Scotland) Act 1978(1);

“the 1995 Act” means the Children (Scotland) Act 1995(2);

“adoption agency” means a local authority or an approved adoption society;

“Her Majesty’s Forces” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955(3), the regular air force as defined by section 223 of the Air Force Act 1955(4), the Queen Alexandra’s Royal Naval Nursing Service and the Woman’s Royal Naval Service; and

“Registrar General” means the Registrar General of Births, Deaths and Marriages for Scotland.

Expenses

2.2 The sheriff may make such an order with regard to the expenses, including the expenses of a reporting officer and a curator *ad litem* or any other person who attended a hearing, of an application under this Chapter as he thinks fit and may modify such expenses or direct them to be taxed on such scale as he may determine.

Intimation to Principal Reporter

2.3 Where in such proceedings as are referred to in subsection (2)(c) of section 54 of the 1995 Act (reference to the Principal Reporter by court) a matter is referred by the sheriff to the Principal Reporter under that section, the interlocutor making the reference shall be intimated by the sheriff clerk forthwith to the Principal Reporter; and that intimation shall specify which of the conditions in paragraph (2)(a) to (h), (j), (k) or (l) of section 52 of the 1995 Act it appears to the sheriff has been satisfied.

(1) 1978 c. 28.

(2) 1995 c. 36.

(3) 1955 c. 18.

(4) 1955 c. 19.

Timetables under section 25A of the Act

2.4 In proceedings in which such a timetable as is referred to in section 25A(a) of the Act (timetable for resolving question)(5) is required, the court shall draw up the timetable forthwith where—

- (a) there is presented a petition with a crave for the agreement of a parent or guardian to be dispensed with;
- (b) it appears to the court from a report by an adoption agency, local authority or reporting officer that a question as to dispensing with such agreement arises; or
- (c) such agreement previously given is withdrawn.

PART II**APPLICATION FOR AN ORDER DECLARING A CHILD FREE FOR ADOPTION****Petition**

2.5.—(1) An application under section 18(1) of the Act (freeing child for adoption)(6) for an order declaring a child free for adoption shall be made by petition in Form 1.

(2) There shall be lodged in process at the same time as the lodging of a petition under paragraph (1)—

- (a) an extract of the entry in the Register of Births relating to the child who is the subject of the application;
- (b) a report of the adoption agency which deals with the following matters:—
 - (i) how the needs of the child came to the notice of the petitioner;
 - (ii) any relevant family circumstances of the child;
 - (iii) a description of the physical and mental health of the child (including any special needs) and his emotional, behavioural and educational development;
 - (iv) an account of the discussion by the petitioner with the parents or guardians of the child and, if appropriate, with the child about their wishes and the alternatives to adoption;
 - (v) the knowledge of the petitioner of the position of other relatives or persons likely to be involved;
 - (vi) an account of the search by the petitioner for any parent or guardian who cannot be found;
 - (vii) the likelihood of placement of the child for adoption and whether a petition for an adoption order is likely in the near future;
 - (viii) the arrangements of the petitioner to care for the child after the granting of the prayer of the petition for an order freeing the child for adoption;
 - (ix) whether the petitioner has given each parent or guardian who can be found an opportunity to make a declaration under section 18(6) of the Act(7) that he prefers not to be involved in future questions concerning the adoption of the child;
 - (x) an account of the enquiries by the petitioner into the circumstances of any reputed father;

(5) Section 25A was inserted by the Children (Scotland) Act 1995, Schedule 2, paragraph 18.

(6) Section 18(1) was amended by the Children (Scotland) Act 1995, Schedule 2, paragraph 11(a).

(7) Section 18(6) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 2, paragraph 40.

- (xi) the intentions of the petitioner about giving notice to a former parent or guardian under section 19(2) and (3) of the Act (progress reports to former parent)(8); and
- (xii) any other information which may be of assistance to the Court; and

(c) any other document founded upon by the petitioner in support of the terms of the petition.

(3) Where an adoption agency which proposes to apply under paragraph (1) wishes to prevent the address of the child being disclosed to any person whose agreement or consent is required by section 18(1)(a) or (2) of the Act respectively, the agency may apply to the sheriff clerk for a serial number to be assigned for that purpose.

Agreement and consents to order freeing child for adoption

2.6.—(1) An agreement required by section 18(1)(a), or a consent required by section 18(2) or 18(8) of the Act(9), if given in writing shall be in Form 2, 3 or 4 as appropriate and such form, duly executed, shall be sufficient evidence of such agreement or consent.

(2) A form of agreement or of consent executed outwith the United Kingdom shall be sufficient evidence of such agreement or consent if it is witnessed—

- (a) where the person who executes the form is serving in Her Majesty’s Forces, by an officer holding a commission in any of those forces; or
- (b) in any other case, by a British consular official, or by any person for the time being authorised by the law of the country in which the form is executed to administer an oath for any judicial or legal purpose.

Appointment of curator *ad litem* and reporting officer

2.7.—(1) The sheriff shall, after the lodging of a petition under rule 2.5(1), appoint a curator *ad litem* and reporting officer and the same person may be appointed as curator *ad litem* and reporting officer in the same petition, if the sheriff considers that doing so is appropriate in the circumstances.

(2) The sheriff may appoint a person who is not a member of a panel established under regulations made by virtue of section 101 of the 1995 Act to be a curator *ad litem* or a reporting officer.

(3) The sheriff may, on cause shown, appoint a reporting officer prior to the lodging of a petition.

(4) An application for an appointment under paragraph (3) shall be made by letter addressed to the sheriff clerk specifying the reasons for the appointment, and shall not require to be intimated to any other person.

Duties of reporting officer and curator *ad litem*

2.8.—(1) A reporting officer appointed under this Part shall—

- (a) witness any consent to the making of an application for an order freeing a child for adoption executed within the United Kingdom by a parent or guardian of the child and shall lodge the consent in process;
- (b) witness any agreement executed within the United Kingdom by a parent or guardian of a child to the making of an adoption order in respect of the child and lodge the agreement in process;
- (c) ascertain that each parent or guardian who can be found understands that the effect of an adoption order would be to extinguish his parental responsibilities and rights;

(8) Subsections (2) and (3) of section 19 were amended by the Children (Scotland) Act 1995, Schedule 2, paragraph 12(b) and (c).
(9) Section 18(8) was substituted by the Age of Legal Capacity (Scotland) Act 1991 (c. 50), section 2(3)(b).

- (d) ascertain from any parent or guardian who can be found, whether alternatives to adoption have been discussed with him;
 - (e) ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
 - (f) ascertain whether the child is subject to a supervision requirement;
 - (g) confirm that each parent or guardian who can be found understands the implications of an order freeing the child for adoption;
 - (h) confirm that each parent or guardian who has given his agreement and can be found understands that he may withdraw his agreement at any time before an order under section 18(1) of the Act is made;
 - (i) confirm that each parent or guardian who can be found is aware that he may in the circumstances set forth in section 20 of the Act (revocation of section 18 order) apply to the court for revocation of any order under section 18(1) of the Act and of the appropriate procedure for such an application;
 - (j) confirm that each parent or guardian who can be found has been given an opportunity to make a declaration in terms of section 18(6) of the Act and, where the parent or guardian elects to make such declaration, shall comply with rule 2.10; and
 - (k) in the case of a child whose father is not married to the mother, consider the likelihood of any person claiming to be the father of the child—
 - (i) applying for or being refused an order under section 11 of the 1995 Act (court orders relating to parental responsibilities); or
 - (ii) entering into an agreement in terms of section 4(1) of that Act (agreement as to parental responsibilities and rights),
 and shall report in writing thereon 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) A curator *ad litem* appointed under this Part shall have regard to the welfare of the child as his paramount duty and shall further—
- (a) generally safeguard the interests of the child who is the subject of the petition and ensure that consideration has been given to the interests of the child for the purposes of section 6 of the Act (duty to promote welfare of child)(10);
 - (b) ascertain whether the facts stated in the petition are correct except where investigation of such facts falls within the duties of the reporting officer;
 - (c) where the child who is sought to be freed for adoption is over the age of 12 years, witness any consent to the order executed by him in the United Kingdom and lodge the consent in process;
 - (d) 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;
 - (e) ascertain whether an order freeing the child for adoption would safeguard and throughout his life promote the welfare of the child;
 - (f) ascertain whether it would be better for the child that the court should make the order than it should not make such order; and
 - (g) report on the current circumstances and care of the child,

(10) Section 6 was substituted by the Children (Scotland) Act 1995, section 95.

and, subject to paragraph (3), shall report in writing thereon 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.

(3) Subject to any order made by the sheriff under rule 2.9(1)(a), the views of the child ascertained in terms of paragraph (2)(d) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

Procedure where child wishes to express a view

2.9.—(1) Where a child had indicated his wish to express his views the sheriff, without prejudice to rule 2.8(2)(d)—

- (a) may order such procedural steps to be taken as he considers appropriate to ascertain the views of that child; and
- (b) shall not make an order under this Part unless an opportunity has been given for the views of that child to be obtained or heard.

(2) Where the views of a child, whether obtained under this rule or under rule 2.8(2)(d), have been recorded in writing, the sheriff may direct that such a written record shall—

- (a) be sealed in an envelope marked “Views of the child – confidential”;
- (b) be available to a sheriff only;
- (c) not be opened by any person other than a sheriff; and
- (d) not form a borrowable part of the process.

Declaration made under section 18(6) of the Act

2.10.—(1) A declaration made under section 18(6) of the Act (declaration of preference not to be involved in future questions concerning the adoption of the child) shall be in Form 5, be signed by each parent or guardian of the child and shall, subject to paragraph (3), be witnessed by the reporting officer.

(2) The reporting officer shall provide a copy of the form of declaration to each parent or guardian of the child for signature and shall explain to him the consequences of signing the declaration and of the terms of section 19 of the Act (progress reports to former parents).

(3) A declaration executed outwith the United Kingdom shall be witnessed in the manner prescribed by rule 2.6(2)(a) or (b).

(4) The reporting officer shall submit the executed declaration to the sheriff clerk who shall thereafter record the declaration in the manner prescribed in rule 2.13.

(5) A withdrawal of a declaration made under section 18(6) of the Act may be made at any time and shall be made by notice in writing in Form 6 to the sheriff clerk who shall forthwith record the withdrawal in the manner prescribed in rule 2.13 and intimate the withdrawal to the adoption agency.

Hearing

2.11.—(1) When the reports of the reporting officer and the curator *ad litem* have been received by the court, the sheriff shall order a diet of hearing to be fixed.

(2) The petitioner shall intimate the diet of hearing in accordance with Form 7—

- (a) to every person, whose whereabouts are known to him and whose agreement or consent in terms of section 18 of the Act is required or must be dispensed with; and
- (b) in the case of a child whose father is not married to the mother, to any person whose whereabouts are known to him and who claims to be the father of the child but who is

not his guardian and in respect of whom no order relating to parental responsibilities has been made.

(3) Subject to paragraph (5), if no person entitled to appear appears and wishes to be heard, the sheriff may make an order freeing the child for adoption on the motion of the petitioner.

(4) Subject to paragraph (5), if a person entitled to appear appears and wishes to be heard, the sheriff may hear him or may order a further diet to be fixed at which he may be heard and evidence given at any such diet shall be given in the presence of the petitioner or his solicitor.

(5) Before making an order, the sheriff shall consider any report received by him in terms of section 73(14) of the 1995 Act (report by children’s hearing).

Confidentiality

2.12.—(1) Unless the sheriff otherwise directs, all documents lodged in process including the reports by the curator *ad litem* and the reporting officer shall be available only to the sheriff, the curator *ad litem*, the reporting officer and the parties; and such documents shall be treated as confidential by any persons involved in, or a party to, the proceedings and by the sheriff clerk.

(2) The reporting officer and curator *ad litem* shall treat all information obtained in the exercise of their duties as confidential and shall not disclose any such information to any person unless disclosure of such information is necessary for the proper discharge of their duties.

(3) This rule is subject to rule 2.9(2).

Adoption Register

2.13.—(1) The sheriff clerk shall maintain a register known as “the Adoption Register”.

(2) The sheriff clerk shall enter in the Adoption Register any declaration made under section 18(6) of the Act submitted to him by the reporting officer and any withdrawal made in terms of rule 2.10(5).

(3) A declaration under section 19(4) of the Act (declaration by former parent not to be involved in future questions concerning the adoption)(**11**) shall be made in Form 5 and the adoption agency shall submit the declaration to the sheriff clerk who shall enter it in the Adoption Register.

Final procedure

2.14.—(1) Where an order under this Part has been granted the sheriff clerk shall—

- (a) after the expiry of 14 days from the date of, or date of confirmation of, the order without appeal having been taken, issue an extract of the order to the petitioner and thereafter seal the process in an envelope marked “Confidential”; and
- (b) where that order includes a determination under section 18(9) of the Act (cancellation of supervision requirement)(**12**), intimate the making of that determination to the Principal Reporter.

(2) The envelope referred to in paragraph (1)(a) shall not be unsealed by the sheriff clerk or any other person having control of the records of that or any court, and the process shall not be made accessible to any person, for one hundred years after the date of the granting of the order except—

- (a) to the person freed for adoption by the order once he has attained the age of sixteen years;
- (b) to the sheriff clerk, on an application made to him by an adoption agency, with the consent of the person to whom the process relates, for the purpose only of ascertaining the name of the agency, if any, responsible for the placement of that person and informing the applicant of that name;

(11) Section 19(4) was amended by the Children (Scotland) Act 1995, Schedule 2, paragraph 12(d).

(12) Section 18(9) was added by the Children (Scotland) Act 1995, Schedule 2, paragraph 11(d).

- (c) to a person, on an application made by him to the sheriff setting forth the reasons for which access to the process is required;
- (d) to a court, public authority or administrative board (whether in the United Kingdom or not) having power to authorise an adoption, on petition by it to the court which granted the original order requesting that information be made available from the process for the purpose of discharging its duties in considering an application for adoption and specifying the precise reasons for which access to the process is required; or
- (e) to a person who is authorised by the Secretary of State to obtain information from the process for the purposes of such research as is intended to improve the working of adoption law and practice.

PART III

REVOCATION ORDERS, ETC.

Application for revocation

2.15.—(1) An application under section 20(1) of the Act(13) for revocation of an order freeing a child for adoption shall be made by minute in Form 8 in the process of the original application and shall specify detailed proposals for the future well-being of the child.

(2) On the lodging of a minute under paragraph (1), the sheriff shall order the applicant to intimate the minute to the petitioner in the original application and to such other person as shall to the sheriff seem appropriate.

(3) Any person to whom intimation has been made under paragraph (2) may, within 14 days after the date on which intimation is made, lodge answers to the minute.

Appointment of curator *ad litem*

2.16.—(1) On the lodging of a minute under rule 2.15(1), the sheriff may appoint a curator *ad litem* who shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) investigate the facts contained in the minute;
- (b) investigate the circumstances and care of the child with regard to the promotion of his welfare throughout his life; and
- (c) 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,

and, subject to paragraph (2), shall report in writing thereon 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.

(2) Subject to any order made by the sheriff under rule 2.17(1)(a), the views of the child ascertained in terms of paragraph (1)(c) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

Procedure where child wishes to express a view

2.17.—(1) Where a child has indicated his wish to express his views the sheriff, without prejudice to rule 2.16(1)(c)—

- (a) may order such procedural steps to be taken as he considers appropriate to ascertain the views of that child; and

(13) Section 20 was amended by the Children (Scotland) Act 1995, Schedule 2, paragraph 13.

- (b) shall not make an order under this Part unless an opportunity has been given for the views of that child to be obtained or heard.
- (2) Where the views of a child, whether obtained under this rule or under rule 2.16(1)(c), have been recorded in writing, the sheriff may direct that such a written record shall—
 - (a) be sealed in an envelope marked “Views of the child – confidential”;
 - (b) be available to a sheriff only;
 - (c) not be opened by any person other than a sheriff; and
 - (d) not form a borrowable part of the process.

Hearing

- 2.18.**—(1) Where answers have been lodged under rule 2.15(3), the sheriff shall order a diet of hearing to be fixed.
- (2) Where no answers to the minute under rule 2.15(1) have been lodged the sheriff may—
 - (a) order the relevant adoption agency to submit a report to him;
 - (b) order a diet of hearing to be fixed; or
 - (c) order both such a report and such a diet of hearing.
 - (3) An order made under this Part shall specify the person—
 - (a) to whom parental rights are given in consequence of the making of the order; and
 - (b) on whom parental responsibilities are imposed in consequence of the making of the order,and intimation shall be given to such a person on the making of such an order.

Application to place a child

- 2.19.**—(1) An application by an adoption agency under section 20(2) of the Act (leave of court to place a child) shall be made by minute in Form 9 in the original process.
- (2) A minute under paragraph (1) shall be intimated by the applicant to such persons as shall to the sheriff seem appropriate.

Further application with leave of the court

2.20 A further application made with leave of the sheriff in terms of section 20(5) of the Act (further application by former parent with leave of the court) shall be made by minute in Form 10 in the original process and the provisions of rules 2.15(2) and (3), 2.16 and 2.17 shall apply to such a further application.

PART IV ADOPTION ORDERS

Application for adoption order

- 2.21.**—(1) An application for an adoption order, or for an order vesting parental responsibilities and rights relating to a child under section 49(1) of the Act (adoption of children abroad)⁽¹⁴⁾, shall be made by petition in Form 11 or 12 as appropriate.
- (2) There shall be lodged in process along with the petition—

(14) Section 49 was amended by the Children Act 1989 (c. 41), Schedule 10, paragraph 42(a).

- (a) an extract of the entry in the Register of Births relating to the child who is the subject of the application;
 - (b) in the case of a joint petition by a married couple, an extract of the entry in the Register of Marriages relating to their marriage;
 - (c) where the child was not placed for adoption with the applicant by an adoption agency, three copies of a medical report showing the physical and mental health of the child (including any special needs) and his emotional, behavioural and educational development;
 - (d) any report by the local authority required by section 22(2) of the Act (investigation by local authority on receipt of notice of intention to apply for adoption order);
 - (e) any report by an adoption agency required by section 23 of the Act (report on the suitability of the applicants);
 - (f) where appropriate, an extract of the order freeing the child for adoption; and
 - (g) any other document founded upon by the petitioner in support of the terms of his petition.
- (3) A report by a local authority under section 22(2), or an adoption agency under section 23, of the Act shall include the following matters:–
- (a) information about how the needs of the child came to the notice of the agency;
 - (b) the family circumstances of the child;
 - (c) where the child was placed for adoption by an adoption agency, a description of the physical and mental health of the child (including any special needs) and his emotional, behavioural and educational development;
 - (d) an account of the discussion with the parents or guardians of the child and, if appropriate, with the child about their wishes and the alternatives to adoption;
 - (e) the position of other relatives or persons likely to be involved;
 - (f) an account of the search for a parent or guardian who cannot be found;
 - (g) information about the mutual suitability of the petitioner and the child for the relationship created by adoption and the ability of the petitioner to bring up the child including an assessment of the personality of the petitioner and, where appropriate, that of the child;
 - (h) particulars of all members of the household of the petitioner and their relationship to the petitioner;
 - (i) a description of the accommodation in the home of the petitioner;
 - (j) in a petition by one of two spouses, why the other spouse has not joined in the petition;
 - (k) whether the petitioner understands the nature and effect of an adoption order and in particular that the order, if made, will make the petitioner responsible for the maintenance and upbringing of the child;
 - (l) whether the means and standing of the petitioner are such as to enable him to maintain and bring up the child suitably, and what right or interest in property the child has;
 - (m) whether any payment or other reward in consideration of the adoption, other than an approved adoption allowance, has been received or agreed upon;
 - (n) what insurance has been offered on the life of the child;
 - (o) the religious persuasion, if any, of the petitioner and the religious persuasion, if any, racial origin and cultural and linguistic background of the child;
 - (p) considerations arising from the difference in age between the petitioner and the child if this is more or less than the normal difference in age between parents and children;
 - (q) whether adoption is likely to safeguard and promote the welfare of the child throughout its life; and

(r) any other information which may be of assistance to the court.

(4) A report by a local authority under section 22(2) of the Act shall also specify whether the child was placed with the applicant in contravention of section 11 of the Act (restriction on arranging adoptions).

(5) If no report by an adoption agency or local authority under paragraph (2)(d) or (e) is available to be lodged along with the petition, the sheriff shall pronounce an interlocutor requiring the adoption agency or local authority concerned to prepare and lodge such a report in court within 4 weeks from the date of the interlocutor, or within such other period as the sheriff in his discretion may allow.

Additional requirements where child to be adopted abroad

2.22.—(1) In a petition for an order under section 49(1) of the Act, the petitioner shall, in addition to complying with rule 2.21, adduce evidence of the law of adoption in the country in which he is domiciled.

(2) The evidence of the law of adoption required under paragraph (1) may be in the form of an affidavit by a person who is conversant with the law of adoption of that country and who practises or has practised law in that country or is a duly accredited representative of the government of that country in the United Kingdom.

Consents and agreements to adoption orders

2.23.—(1) A consent to an order required by section 12(8) of the Act (need for child's consent)(**15**), or an agreement required by section 16(1) of the Act (parental agreement)(**16**), or such an agreement where the application is made by a person to whom section 15(1)(aa) of the Act (adoption by one person)(**17**) applies, if given in writing shall be in Form 4, 13 or 14 as appropriate and such form duly executed shall be sufficient evidence of such consent or agreement.

(2) A form of consent or agreement executed outwith the United Kingdom shall be sufficient evidence of such consent or agreement if it is witnessed—

- (a) where the person who executes the form is serving in Her Majesty's Forces, by an officer holding a commission in any of those forces; or
- (b) in any other case, by a British diplomatic or consular officer, or any person authorised to administer an oath or affirmation under the law of the place where the consent or agreement is executed.

Protection of identity of petitioner

2.24.—(1) When any person who proposes to apply under rule 2.21 wishes to prevent his identity being disclosed to any person whose agreement to the order is required, he may, before presenting the petition, apply to the sheriff clerk for a serial number to be assigned to him for all purposes connected with the petition.

(2) On receipt of an application for a serial number, the sheriff clerk shall assign such a number to the applicant and shall enter a note of it opposite the name of the applicant in a register of such serial numbers.

(3) The contents of the register of serial numbers and the names of the persons to whom each number relates shall be treated as confidential by the sheriff clerk and shall not be disclosed to any person other than the sheriff.

(15) Section 12(8) was substituted by the Age of Legal Capacity (Scotland) Act 1991 (c. 50), section 2(3)(a).

(16) Section 16(1) was amended by the Children Act 1989 (c. 41), Schedule 10, paragraph 34.

(17) Section 15(1)(aa) was inserted by the Children (Scotland) Act 1995, section 97(2)(a).

(4) Where a serial number has been assigned to an applicant in terms of paragraph (2), any form of agreement to an adoption order which is required shall not contain the name or designation of the petitioner but shall refer to him by means of the serial number assigned to him and shall specify the year in which, and by which court, the serial number has been assigned.

Appointment of curator *ad litem* and reporting officer

2.25.—(1) Subject to paragraph (2) the sheriff shall, after the lodging of a petition under rule 2.21, appoint a curator *ad litem* and reporting officer and the same person may be appointed as curator *ad litem* and reporting officer in the same petition, if the sheriff considers that doing so is appropriate in the circumstances.

(2) Where an order freeing the child for adoption has been made, the sheriff shall not appoint a reporting officer save for the purpose specified in rule 2.26(1)(a).

(3) The sheriff may appoint a person who is not a member of a panel established under regulations made by virtue of section 101 of the 1995 Act to be curator *ad litem* or a reporting officer.

(4) The sheriff may, on cause shown, appoint a reporting officer prior to the lodging of such a petition.

(5) An application for an appointment under paragraph (4) shall be made by letter addressed to the sheriff clerk specifying the reasons for the appointment, and shall not require to be intimated to any other person.

Duties of reporting office and curator *ad litem*

2.26.—(1) Subject to rule 2.25(2), a reporting officer appointed under this Part shall—

- (a) witness any agreement executed within the United Kingdom by a parent or guardian of a child to the making of an adoption order in respect of the child and lodge the agreement in process;
- (b) ascertain that each parent or guardian who is not a petitioner and whose agreement is required or may be dispensed with understands the effect of the adoption order;
- (c) where a parent or guardian whose agreement is required or may be dispensed with can be found, ascertain whether alternatives to adoption have been discussed with him;
- (d) ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
- (e) ascertain whether the child is subject to a supervision requirement; and
- (f) confirm that each parent or guardian whose agreement is required understands that he may withdraw his agreement at any time before an order is made,

and shall report in writing thereon 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) A curator *ad litem* appointed under this Part shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) generally safeguard the interests of the child whose adoption is the subject of the petition;
- (b) where the child in respect of whom an adoption order is sought is over the age of 12 years, witness any consent to the order executed by him in the United Kingdom and lodge the consent in process;
- (c) ascertain whether the facts stated in the petition are correct and if they are not establish the true facts;
- (d) obtain particulars of accommodation in the home of the petitioner and the condition of the home;

- (e) obtain particulars of all members of the household of the petitioner and their relationship to the petitioner;
- (f) in the case of a petition by only one of two spouses, ascertain the reason of the other spouse for not joining in the application;
- (g) ascertain whether the means and status of the petitioner are sufficient to enable him to maintain and bring up the child suitably;
- (h) ascertain what rights or interests in property the child has;
- (i) 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;
- (j) 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;
- (k) ascertain whether any payment or other reward in consideration of the adoption has been given or agreed upon;
- (l) establish whether the adoption is likely to safeguard and promote the welfare of the child throughout his life;
- (m) ascertain whether the life of the child has been insured and if so for what sum;
- (n) ascertain whether it may be in the interests of the welfare of the child that the sheriff should make any interim order or make the adoption order subject to particular terms and conditions or require the petitioner to make special provision for the child and if so what provision;
- (o) 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;
- (p) establish the reasons of the petitioner for wishing to adopt the child;
- (q) establish to which religion, if any, the petitioner subscribes and the religious persuasion, if any, racial origin and cultural and linguistic background of the child;
- (r) 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 as between parents and their children;
- (s) 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;
- (t) ascertain whether it would be better for the child that the court should make the order than it should not make the order; and
- (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,

and, subject to paragraph (3), shall report in writing thereon 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.

(3) Subject to any order made by the sheriff under rule 2.27(1)(a), the views of the child ascertained in terms of paragraph (2)(u) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

Procedure where child wishes to express a view

2.27.—(1) Where a child has indicated his wish to express his views the sheriff, without prejudice to rule 2.26(2)(u)—

- (a) may order such procedural steps to be taken as he considers appropriate to ascertain the views of that child; and
- (b) shall not make an order under this Part unless an opportunity has been given for the views of that child to be obtained or heard.

(2) Where the views of a child, whether obtained under this rule or under rule 2.26(2)(u), have been recorded in writing, the sheriff may direct that such a written record shall—

- (a) be sealed in an envelope marked “Views of the child – confidential”;
- (b) be available to a sheriff only;
- (c) not be opened by any person other than a sheriff; and
- (d) not form a borrowable part of the process.

Hearing

2.28.—(1) On receipt of the reports of the reporting officer and the curator *ad litem* in respect of a child who is not free for adoption, the sheriff shall fix a diet of hearing.

(2) On receipt of the report of the curator *ad litem* in respect of a child who is free for adoption, the sheriff may fix a diet of hearing.

(3) The petitioner shall intimate in Form 7 the diet of hearing referred to in paragraphs (1) and (2) to—

- (a) in a petition for an adoption order, every person who can be found and whose agreement or consent to the making of such an order is required to be given or dispensed with; or
- (b) in a petition for an order under section 49(1) of the Act, every person who can be found and whose agreement to the making of such an order would be required if the application were for an adoption order.

(4) The sheriff may, if he considers it appropriate, ordain the petitioner to serve notice of the date of the hearing in Form 7 on—

- (a) any person or body having the rights and powers of a parent of the child or having the custody or care of the child or a local authority having the child committed to its care by virtue of sections 11, 54 or 86 of the 1995 Act or sections 5, 8 or 31 of the Children Act 1989⁽¹⁸⁾;
- (b) any person liable by virtue of any order or agreement to contribute to the maintenance of the child;
- (c) the local authority to whom the petitioner has given notice of his intention to apply for an adoption order;
- (d) any other person or body who in the opinion of the sheriff ought to be served with notice of the hearing.

(5) Subject to paragraph (7), if no person entitled to appear at such a hearing appears to be heard, the sheriff may grant an adoption order on the motion of the petitioner.

(6) Subject to paragraph (7), if a person entitled to appear appears and wishes to be heard, the sheriff may hear him or may order a further diet to be fixed at which he may be heard and evidence given at such a diet shall be given in the presence of the petitioner or his solicitor.

⁽¹⁸⁾ 1989 c. 41; section 31 was amended by the Children (Scotland) Act 1995, Schedule 4, paragraph 48(2).

(7) Before making an order, the sheriff shall consider any report received by him in terms of section 73(14) of the 1995 Act.

Insufficient evidence

2.29 If the sheriff is not satisfied that the facts stated in the petition are supported by the documents lodged with it or by the reports of the curator *ad litem* and reporting officer, or if for any other reason he considers it appropriate, he may order the production of further documents or that oral evidence be led.

Confidentiality

2.30.—(1) Unless the sheriff otherwise directs, all documents lodged in process including the reports by the curator *ad litem* and the reporting officer shall be available only to the sheriff, the curator *ad litem*, the reporting officer and the parties; and such documents shall be treated as confidential by all persons involved in, or party to, the proceedings and by the sheriff clerk.

(2) The reporting officer and the curator *ad litem* shall treat all information obtained in the exercise of their duties as confidential and shall not disclose any such information to any person unless disclosure of such information is necessary for the proper discharge of their duties.

(3) This rule is subject to rule 2.27(2).

Communications to the Registrar General

2.31 The communication to the Registrar General of an adoption order or order for the revocation of an adoption order required to be made by the sheriff clerk shall be made by sending a certified copy of the order to the Registrar General either by recorded delivery post in an envelope marked “Confidential”, or by personal delivery by the sheriff clerk in a sealed envelope marked “Confidential”.

Adoption orders

2.32.—(1) An adoption order granted by the sheriff shall specify the name and address of the adoption agency, if any, which has taken part in the arrangements for placing the child in the care of the petitioner.

(2) No extract of an adoption order shall be issued except with the authority of the sheriff who made the order or, in that sheriff’s absence, of the sheriff principal.

(3) The authority required by paragraph (2) shall be obtained by lodging a petition setting forth the reasons for which the extract is required.

Final procedure

2.33.—(1) After the granting of an order under this Part the court process shall, immediately upon the communication under rule 2.31 being made or, in the event of an extract of the order being issued under rule 2.32, immediately upon the issue of such extract, be sealed by the sheriff clerk in an envelope marked “Confidential”.

(2) The envelope referred to in paragraph (1) shall not be unsealed by the sheriff clerk or any other person having control of the records of that or any court, and the process shall not be made accessible to any person, for one hundred years after the date of the granting of the adoption order except—

(a) to an adopted child who has attained the age of sixteen years and to whose adoption the process refers;

- (b) to the sheriff clerk, on an application made to him by an adoption agency and with the consent of the adopted person for the purpose only of ascertaining the name of the agency, if any, responsible for the placement of that person and informing the applicant of that name;
 - (c) to a person, on an application made by him to the sheriff setting forth the reasons for which access to the process is required;
 - (d) to a court, public authority or administrative board (whether in the United Kingdom or not) having power to authorise an adoption, on petition by it to the court which granted the original order requesting that information be made available from the process for the purpose of discharging its duties in considering an application for adoption and specifying the precise reasons for which access to the process is required; or
 - (e) to a person who is authorised by the Secretary of State to obtain information from the process for the purposes of such research as is intended to improve the working of adoption law and practice.
- (3) The sheriff clerk shall—
- (a) where an adoption order includes a determination under section 12(9) of the Act, intimate the making of that determination to the Principal Reporter; and
 - (b) where appropriate, intimate the making of an adoption order to the court by which an order freeing the child for adoption was made.

Amendment of adoption order

2.34.—(1) An application under paragraph 4(1) of Schedule 1 to the Act (amendment of orders and rectification of registers) shall be by petition to the court which pronounced the adoption order.

(2) The sheriff may order the petitioner to intimate the petition to such persons as to the sheriff may seem appropriate.

Revocation of adoption order

2.35.—(1) An application under section 46(1) of the Act (revocation of adoption order where adoptive parent marries other parent)(**19**) shall be by petition to the court which pronounced the adoption order.

(2) On lodging of a petition under this rule, the sheriff shall order such service as he considers appropriate.

Application for removal of child pending adoption

2.36.—(1) An application under section 27(1) (restrictions on removal where adoption agreed or application made under section 18(1)), section 28 (restrictions on removal where applicant has provided home for five years), section 29 (return of child taken away in breach of section 27 or 28) or section 30(2) (return of children placed for adoption) of the Act(**20**) shall be made by minute lodged in the process of the original adoption petition.

(2) A minute under paragraph (1) shall set forth the relevant facts and the crave which the minuter wishes to make.

(3) On receipt of the minute the sheriff shall order a diet of hearing to be fixed and shall ordain the minuter to send a notice of such hearing in Form 15 together with a copy of the minute by registered post or by recorded delivery letter to the petitioner in the original petition, to the curator *ad litem* in

(19) Section 46(1) was amended by the Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9), Schedule 1, paragraph 18(3).

(20) Sections 27(1), 28 and 29 were amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 2, paragraphs 42 to 44 ; section 29 was also amended by the Children Act 1989, Schedule 10, paragraph 39.

the original petition, to any person who may have care and possession of the child and to such other persons as the sheriff may deem appropriate.

PART V

PARENTAL RESPONSIBILITIES ORDERS

Interpretation

2.37 In this Part—

“application” means, except in rule 2.44, an application for a parental responsibilities order in terms of section 86 of the 1995 Act; and

“relevant person” has the same meaning as in section 86 of the 1995 Act.

Form of application and agreement

2.38.—(1) An application shall be made in Form 16.

(2) An agreement entered into by a relevant person in terms of section 86(2)(a) of the 1995 Act shall be in writing and shall be in Form 17.

Appointment of curator *ad litem* and reporting officer

2.39.—(1) The sheriff shall, after the making of an application, appoint a curator *ad litem* and reporting officer and the same person may be appointed as curator *ad litem* and reporting officer in the same application, if the sheriff considers that doing so is appropriate in the circumstances.

(2) The sheriff may appoint a person who is not a member of a panel established under regulations made by virtue of section 101 of the 1995 Act to be a curator *ad litem* or a reporting officer.

(3) The sheriff may, on cause shown, appoint a reporting officer prior to the lodging of an application.

(4) A request for an appointment under paragraph (3) shall be made by letter addressed to the sheriff clerk specifying the reasons for the appointment, and shall not require to be intimated to any other person.

Duties of reporting officer and curator *ad litem*

2.40.—(1) A reporting officer appointed under this Part shall—

- (a) witness any agreement executed within the United Kingdom by a relevant person to the making of a parental responsibilities order in respect of the child and shall lodge the agreement in process;
- (b) ascertain that each relevant person who can be found understands that the effect of a parental responsibilities order would be to transfer his parental responsibilities and rights;
- (c) ascertain whether there is any person other than those mentioned in the application upon whom notice of the application should be served;
- (d) confirm that each relevant person who can be found understands the implications of a parental responsibilities order; and
- (e) confirm that each relevant person who can be found understands that he may apply to the sheriff for the variation or discharge of a parental responsibilities order in terms of rule 2.44 and understands the appropriate procedure for so applying,

and shall report in writing thereon 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) A curator *ad litem* appointed under this Part shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) generally safeguard the interests of the child who is the subject of the application and ensure that consideration has been given to the interests of the child for the purposes of section 6 of the Act (duty to promote welfare of child);
- (b) ascertain whether the facts stated in the application are correct, except where investigation of such facts falls within the duties of the reporting officer;
- (c) 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;
- (d) ascertain whether a parental responsibilities order would safeguard and promote the welfare of the child; and
- (e) report on the current circumstances and care of the child,

and, subject to paragraph (3), shall report in writing thereon 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.

(3) Subject to any order made by the sheriff under rule 2.41(1)(a), the views of the child ascertained in terms of paragraph (2)(c) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

Procedure where child wishes to express a view

2.41.—(1) Where a child has indicated his wish to express his views the sheriff, without prejudice to rule 2.40(2)(c)—

- (a) may order such procedural steps to be taken as he considers appropriate to ascertain the views of that child; and
- (b) shall not make a parental responsibilities order unless an opportunity has been given for the views of that child to be obtained or heard.

(2) Where the views of a child, whether obtained under this rule or under rule 2.40(2)(c), have been recorded in writing, the sheriff may direct that such a written record shall—

- (a) be sealed in an envelope marked “Views of the child – confidential”;
- (b) be available to a sheriff only;
- (c) not be opened by any person other than a sheriff; and
- (d) not form a borrowable part of the process.

Hearing

2.42.—(1) When the reports of the reporting officer and the curator *ad litem* have been received by the court, the sheriff shall order a diet of hearing to be fixed.

(2) The applicant shall intimate the diet of hearing in accordance with Form 18—

- (a) to any relevant person whose whereabouts are known to him and whose agreement in terms of section 86(2) of the 1995 Act is required or must be dispensed with; and
- (b) in the case of a child whose father is not married to the mother, to any person whose whereabouts are known to him and who claims to be the father of the child but who is not his guardian and in respect of whom no order relating to parental rights has been made.

(3) Subject to paragraph (5), if no person entitled to appear appears and wishes to be heard, the sheriff may make the parental responsibilities order.

(4) Subject to paragraph (5), if a person entitled to appear appears and wishes to be heard, the sheriff may hear him or may order a further diet to be fixed at which he may be heard and evidence given at any such diet shall be given in the presence of the applicant or his solicitor.

(5) Before making an order, the sheriff shall consider any report received by him in terms of section 73(14) of the 1995 Act.

Orders

2.43.—(1) After hearing evidence in terms of rule 2.42(4) and allowing such further procedure as he thinks appropriate, the sheriff shall make an order granting or refusing the application and any order granting the application may contain such conditions as he thinks appropriate.

(2) Where an order is made granting the application, that order shall be in Form 19.

Variation and discharge of order

2.44.—(1) In any proceedings in which a parental responsibilities order is granted under section 86 of the 1995 Act, any of the persons referred to in subsection (5) of that section may by minute make application for the variation or discharge of that order (in this rule referred to as an “application”).

(2) An application shall contain—

- (a) the name and address of the applicant and his relationship to and interest in the child;
- (b) the name and address of the local authority which made the application for the parental responsibilities order (“the original application”), the child, the curator *ad litem* appointed in terms of rule 2.39, any relevant person and any other person who was a party to the original application;
- (c) details of the original application;
- (d) the grounds on which variation or discharge is sought; and
- (e) details of the order sought by the applicant.

(3) The sheriff may, on the lodging of a minute under paragraph (1), appoint a curator *ad litem* who shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) investigate the facts, as contained in the application;
- (b) investigate the care of the child with regard to the promotion of his welfare throughout his life;
- (c) 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,

and, subject to paragraph (4), shall report in writing thereon 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.

(4) Rule 2.41 shall apply to an application and, subject to any order thereunder, the views of the child ascertained in terms of paragraph (3)(c) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

(5) Subject to paragraphs (6) and (7), rules 2.42 and 2.43 shall apply to an application as they apply to an application for a parental responsibilities order.

(6) Intimation of the diet of hearing of an application shall be in Form 20 and shall be given, in addition to the persons referred to in rule 2.42(2), to the persons referred to in paragraph (2)(b).

(7) Where an order is made granting the application, that order shall be in Form 21 and the making of such an order shall be intimated to the persons referred to in paragraph (2)(b).

PART VI
HUMAN FERTILISATION AND EMBRYOLOGY

Interpretation

2.45 In this Part—

- “1990 Act” means the Human Fertilisation and Embryology Act 1990⁽²¹⁾;
- “application” means an application for a parental order under section 30 of the 1990 Act;
- “the Regulations” means the Parental Orders (Human Fertilisation and Embryology) (Scotland) Regulations 1994⁽²²⁾.

Form of application and productions

2.46.—(1) An application shall be made by petition in Form 22.

- (2) On presentation of the petition, there shall be lodged in process as productions—
- (a) an extract of any entry in the register of births relating to the birth of the child;
 - (b) extracts of any entries in the register of births relating to the birth of each of the petitioners;
 - (c) an extract of any entry in the register of marriages relating to the marriage of the petitioners; and
 - (d) any other document founded on by the petitioners in support of the terms of the petition.

Confidentiality

2.47.—(1) Unless the sheriff otherwise directs, all documents lodged in process including the reports by the curator *ad litem* and the reporting officer shall be available only to the sheriff, the curator *ad litem*, the reporting officer and the parties; and such documents shall be treated as confidential by all persons involved in, or party to, the proceedings and by the sheriff clerk.

(2) The reporting officer and the curator *ad litem* shall treat all information obtained in the exercise of their duties as confidential and shall not disclose any such information to any person unless disclosure of such information is necessary for the proper discharge of their duties.

Agreements to parental order

2.48.—(1) An agreement for the purposes of section 30(5) of the 1990 Act (agreement to parental order by a father who is not the husband of the female petitioner or by the woman who carried the child) shall, if given in writing, be in Form 23.

- (2) An agreement referred to in this rule which is executed furth of Scotland shall be witnessed—
- (a) where it is executed in England, Wales or Northern Ireland, by a justice of the peace or commissioner for oaths; or
 - (b) where it is executed furth of the United Kingdom—
 - (i) the case of a person who is serving in Her Majesty’s Forces, by an officer holding a commission in those forces; or
 - (ii) by a British consular official or any person authorised, by the law of the country where the agreement is executed, to administer an oath for any legal purpose.

(21) 1990 c. 37.

(22) S.I. 1994/2804.

Orders for evidence

2.49.—(1) The sheriff may, before determining the cause, order—

- (a) production of further documents (including affidavits); or
- (b) parole evidence.

(2) A party may apply by motion for the evidence of a person to be received in evidence by affidavit; and the sheriff may make such order as he thinks fit.

Protection of identity of petitioners

2.50.—(1) Where a married couple, who seek to apply for a parental order, wish to prevent their identity being disclosed to any person whose agreement is required under section 30(5) of the 1990 Act, they may, before presenting a petition, apply to the sheriff clerk for a serial number to be assigned to them.

(2) On receipt of an application for a serial number, the sheriff clerk shall assign a serial number to the applicants and shall enter a note of it opposite the names of the applicants in a register of serial numbers.

(3) Where a serial number has been assigned under paragraph (2)—

- (a) the record of the serial number and the persons to whom it applies shall be treated as confidential and disclosed only to the sheriff;
- (b) any agreement under section 30(5) of the 1990 Act shall not name or design the petitioners but shall refer to them by means of the serial number; and
- (c) it shall be used to name or design the petitioners for all purposes connected with the petition.

Appointment of reporting officer and curator *ad litem*

2.51.—(1) On the presentation of the petition, the sheriff shall appoint a reporting officer and a curator *ad litem* and the same person may be appointed as reporting officer and curator *ad litem* in the same petition, if the sheriff considers that doing so is appropriate in the circumstances.

(2) Where the curator *ad litem* is not also the reporting officer, the sheriff may order the reporting officer to make available to the curator *ad litem* any report or information in relation to the child.

(3) A married couple may, before presenting the petition, apply to the sheriff for the appointment of a reporting officer.

(4) An application under paragraph (3) shall—

- (a) be made by letter setting out the reasons for which the appointment is sought; and
- (b) not require to be intimated to any person.

Selection of reporting officer and curator *ad litem*

2.52 The reporting officer and curator *ad litem* appointed by the sheriff shall be selected from a panel established under regulations made by virtue of section 101 of the 1995 Act unless the sheriff considers that it would be appropriate to appoint a person who is not on the panel.

Duties of reporting officer and curator *ad litem*

2.53.—(1) A reporting officer appointed under rule 2.51(1) shall, where appropriate—

- (a) enquire into the facts and circumstances averred in the petition;

- (b) ascertain whether the conditions in subsections (2) to (7) of section 30 of the 1990 Act have been satisfied;
- (c) witness any execution in Scotland of any agreement under section 30(5) of the 1990 Act, and investigate whether the agreement is given freely, unconditionally and with full understanding of what is involved;
- (d) where a person whose agreement is required is furth of Scotland, confirm his views in writing, ensure that any agreement under said section 30(5) is witnessed in accordance with rule 2.48(2) and investigate whether the agreement is given freely, unconditionally and with full understanding of what is involved;
- (e) ensure that each person whose agreement is required understands that in agreeing to the parental order he is giving up all future claims to the child and that all parental rights and responsibilities will vest in the petitioners;
- (f) investigate whether there are any other persons with a relevant interest and whether they should be informed of the petition;
- (g) ascertain from any person whose agreement is required and who can be found whether alternatives to a parental order have been discussed with him;
- (h) ensure that any person whose agreement is required is aware of the date (if known) of the hearing to determine the application if he wishes to appear, and confirm that any such person understands that he may withdraw his agreement at any time before a parental order is made; and
- (i) draw to the attention of the court any matter which may be of assistance;

and shall report in writing thereon 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) A curator *ad litem* appointed under rule 2.51(1) shall—

- (a) safeguard generally the interests of the child;
- (b) enquire, so far as he considers necessary, into the facts and circumstances averred in the petition;
- (c) ascertain whether any money or other benefit which is prohibited by section 30(7) of the 1990 Act (prohibition on gift or receipt of money or other benefit) has been received or agreed upon;
- (d) establish that the petitioners understand that the nature and effect of a parental order is to transfer the parental rights and responsibilities in relation to the child to the petitioners and make them responsible for the maintenance and upbringing of the child;
- (e) ascertain whether the proposed parental order is likely to safeguard and promote the welfare of the child throughout his life;
- (f) ascertain whether it may be in the interests of the child that the court should make a parental order subject to particular conditions, including the making of special provision for the child; and
- (g) perform such other duties as appear to him to be necessary or as the court may require;

and shall report in writing thereon 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.

(3) The reporting officer shall, on completion of his report in terms of paragraph (1), in addition send to the sheriff clerk—

- (a) a copy of his report for each party; and
- (b) any agreement for the purposes of section 30(5) of the 1990 Act.

(4) The curator *ad litem* shall, on completion of his report in terms of paragraph (2), in addition send a copy for each party to the sheriff clerk.

Hearing

2.54.—(1) On receipt of the reports referred to in rule 2.53, the sheriff shall fix a hearing.

(2) The sheriff may—

- (a) order any person whose agreement is required to be given to attend the hearing;
- (b) order intimation of the date of the hearing to any person not mentioned in paragraph (3) (a), (b) or (c); and
- (c) order the reporting officer or curator *ad litem* to perform additional duties to assist him in determining the petition.

(3) The petitioners shall intimate the date of the hearing in Form 24 by registered post or recorded delivery letter to—

- (a) every person whose whereabouts are known to them and whose agreement is required to be given;
- (b) the reporting officer appointed under rule 2.51(1);
- (c) the curator *ad litem* appointed under rule 2.51(1); and
- (d) any person on whom intimation has been ordered under paragraph (2)(b).

(4) At the hearing—

- (a) the petitioners, the reporting officer and the curator *ad litem* shall, if required by the sheriff, appear and may be represented;
- (b) any other person required by the sheriff to attend the hearing shall appear and may be represented;
- (c) any other person to whom intimation was made under paragraph (3)(a) or (d) may appear or be represented.

Applications for return, removal or prohibition of removal of child

2.55.—(1) An application under section 29 of the Act, as modified and applied in relation to applications for parental orders by Schedule 1 to the Regulations (order to return a child to, or not to remove a child from, the care of the applicants), in relation to a breach of section 27(1) of the Act as so modified and applied (restriction on removal of child where application for parental order pending), or under section 27(1) of the Act as so modified and applied for leave to remove a child, shall be made by minute in the process of the petition for a parental order to which it relates.

(2) A minute under paragraph (1) shall include an appropriate crave and statement of facts.

(3) On receipt of the minute, the sheriff shall order a hearing to be fixed and ordain the minuter to send a notice of such hearing in Form 25 and a copy of the minute by registered post or recorded delivery letter to the reporting officer and the curator *ad litem* and to such other persons as the sheriff thinks fit.

Applications to amend, or revoke a direction in, a parental order

2.56.—(1) An application under paragraph 3(1) of Schedule 1 to the Act, as modified and applied in relation to parental orders by Schedule 1 to the Regulations (amendment, or revocation of a direction in, a parental order), shall be made by petition to the court which pronounced the order.

(2) The sheriff may order the petitioners to intimate the petition to such persons as he thinks fit.

Registration of certified copy interlocutor

2.57 On the sheriff pronouncing an interlocutor making—

- (a) a parental order;
- (b) an amendment to, or revocation of a direction in, a parental order; or
- (c) a revocation of a parental order,

the sheriff clerk shall send a certified copy of that interlocutor to the Registrar General in a sealed envelope marked “confidential”.

Extract of order

2.58 An extract of a parental order shall not be issued except by order of the court on an application to it—

- (a) where there is a petition for the parental order depending before the court, by motion in that process; or
- (b) where there is no such petition depending before the court, by petition.

Final procedure

2.59.—(1) After a certified copy of an interlocutor mentioned in rule 2.57 has been sent to the Registrar General, the sheriff clerk shall forthwith—

- (a) place the whole process in an envelope bearing only—
 - (i) the name of the petitioners;
 - (ii) the full name of the child to whom the process relates; and
 - (iii) the date of the order; and
- (b) seal the envelope and mark it “confidential”.

(2) No person shall open a process referred to in paragraph (1) or inspect its contents within 100 years after the date of the parental order, except—

- (a) the person in respect of whom the parental order was made after he has reached the age of 16 years;
- (b) any other person or body entitled under subsection (5) of section 45 of the Act, as modified and applied in relation to parental orders and applications for such orders by Schedule 1 to the Regulations, to access to the registers and books kept under subsection (4) of that section, as so modified and applied, with the written authority of the person in respect of whom the parental order was made;
- (c) by order of the court on an application made by petition presented by another court or authority (whether within the United Kingdom or not) having the power to make a parental order for the purpose of obtaining information in connection with an application to it for such an order;
- (d) by order of the court on an application made by petition presented by any person; and
- (e) a person who is authorised in writing by the Secretary of State to obtain information from the process for the purpose of research designed to improve the working of human fertilisation and embryology law and practice.