STATUTORY INSTRUMENTS

1982 No. 34 (S.3)

CHILDREN AND YOUNG PERSONS

The Adoption Agencies (Scotland) Regulations 1982

Made - - - -	*11th January* 1982
Laid before Parliament	*26th January* 1982
Coming into Operation	*15th February* 1982

In exercise of the powers conferred on me by sections 32(1), (1A) and (3) of the Adoption Act 1958 (**a**) and section 4(1) of the Children Act 1975(**b**), 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 1982 and shall come into operation on 15th February 1982.

(2) These regulations shall apply to Scotland only.

Interpretation

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

"the Act" means the Adoption Act 1958;
"the 1975 Act" means the Children Act 1975;
"adoption agency" means a local authority or an approved adoption society within the meaning of the 1975 Act.

(2) In these regulations any reference to an adoption order or to a person proposing to adopt a child shall be construed as including a reference to a provisional adoption order or 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 4 of the 1975 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 4 of the 1975 Act to its acting as an adoption society.

(**a**) 1958 c. 5 (7 and 8 Eliz. 2); section 32(1) and (1A) was substituted by paragraph 27(a) of Schedule 3 to the Children Act 1975 (c. 72).
(**b**) 1975 c. 72.

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 fully 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 may appoint such number of adoption panels as it considers necessary for the purpose of considering such matters relating to the adoption of a child as the agency may refer to them.

12. An adoption panel shall consist of not less than 3 persons each of whom shall be competent to assess whether a proposed placing is likely to promote the welfare of the child, and so far as practicable shall include at least one man and at least one woman.

Duties of adoption agencies in making arrangements for adoption

13. An adoption agency proposing to make arrangements for a child's adoption:—

(a) shall secure that each parent or guardian of the child is provided with a memorandum in the form set out in Schedule 1 and signs and returns to the agency a certificate in the form set out in that Schedule, or a form to the like effect, certifying that he has read and understood that memorandum; and

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

14. Subject to the duty of an adoption agency under section 3 of the 1975 Act to promote the welfare of a child, 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 2;

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

(c) the adoption agency has obtained a report 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) an inspection has been made by, or on behalf of, the adoption agency of any premises in Great Britain in which that person intends that the child shall have his home;

(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 in those premises and has inquired of every local authority (within the meaning of section 235(1) of the Local Government (Scotland) Act 1973(**a**)) 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, after considering all the information obtained in pursuance of this Regulation and having had regard to all the circumstances, including the personality of any person proposing to adopt the child and, in the case of a married couple, the stability of the marriage, has approved of the child being so placed.

15.—(1) An adoption agency shall, at the time a child is placed for adoption, 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 22(4) or 20A(1) of the Act (**b**); and

the availability of counselling services for adopted persons under section 22(4A) or 20A of the Act (**c**); and

(iii) the availability of counselling services on any problems relating to the adoption.

(**a**) 1973 c. 65.

(**b**) Section 22(4) was amended by section 27(a) of the 1975 Act and section 20A was inserted by section 26(2) of the 1975 Act.

(**c**) Section 22(4A) was inserted by section 27(b) of the 1975 Act.

(2) The adoption agency shall provide the person proposing to adopt the child with a copy of a report based on the medical findings on that child obtained under Regulation 16(3).

Supervision and reports on placements for adoption

16.—(1) An adoption agency shall make adequate arrangements for the supervision of every child placed by or on behalf of the agency in the care and possession of a person proposing to adopt him until that person gives notice under section 3(2) of the Act (**a**) of his intention to apply for an adoption order in respect of the child, and shall arrange that every such child is visited by a representative of the agency within one month after being so placed and thereafter at intervals not exceeding one month, until notice is given under section 3(2) of the Act.

(2) The representative shall after each visit make a written report to the agency as to the welfare of the child.

(3) Where a child has been placed by or on behalf of an adoption agency in the care and possession of a person proposing to adopt the child:—

(a) the agency shall arrange for a test of the child's blood for the purpose of early detection of hypothyroidism and of estimating the level of phenylalanine therein to be carried out after the child has attained the age of 6 complete days and for a report thereon to be obtained from a fully registered medical practitioner unless:—

(i) these tests have already been carried out and the findings are known to the agency, or

(ii) the child has already attained an age by which the associated abnormalities would be capable of detection clinically;

(b) the agency shall arrange for a test of the child's blood for syphilis to be carried out after the child has attained the age of 6 weeks and to obtain a report thereon, unless:—

(i) the agency has received a negative report of a blood test for syphilis on the mother during late pregnancy or the puerperium, or

(ii) the agency already has a report of a test of the child's blood for syphilis, or

(iii) the child has attained the age of 3 years;

provided that if the result of a test of the blood of the child's mother carried out in accordance with sub-paragraph (b) is positive, as soon as practicable thereafter the agency shall also arrange for a test of the child's blood for syphilis to be carried out and a report obtained in accordance with the provisions of that sub-paragraph.

Disclosure of information in relation to the adoption

17. Any information obtained by any person in the course of negotiation entered into by or on behalf of an adoption agency with a person proposing to place a child with the agency with a view to his being adopted, or with a person proposing to adopt him, shall be treated as confidential and shall not be disclosed, except so far as may be necessary:—

(a) for the purpose of proceedings under the Act or the 1975 Act; or

(b) for the purposes of Regulations 15 or 20; or

(**a**) Amended by S.I. 1977/227.

(c) for the proper execution of his duty; or

(d) for the purposes of any investigation conducted under Part II of the Local Government (Scotland) Act 1975 (a) by the Commissioner for Local Administration in Scotland appointed under section 24 of that Act; or

(e) for the purpose of research by a person who is authorised in writing by or on behalf of the Secretary of State to obtain the information for that purpose.

18. An adoption agency shall ensure that:—

(a) none of its records or other documents relating to the negotiations mentioned in Regulation 17 are accessible to unauthorised persons; but in the case of an approved adoption society such records shall be made accessible to the Secretary of State;

(b) the said records and other documents are to be preserved, or retained on microfilm, for at least 75 years.

19. An approved adoption society which ceases to operate as an adoption society shall transfer its records:—

(a) to the local authority in whose area the society's head or registered office is situated;

(b) in the case of a society which amalgamates with another approved adoption society to form a new approved adoption society, to the new society.

20. 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 22(4A) or 20A(4) of the Act, 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;

(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.

Revocations

21. The Regulations set out in Schedule 3 are hereby revoked.

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

New St Andrew's House,
Edinburgh.
11th January 1982.

(a) 1975 c. 30.

Regulation 13

SCHEDULE 1

ADOPTION OF CHILDREN

This memorandum is addressed to the parent or guardian of a child who is about to be legally adopted. This includes the natural father of an illegitimate child if he 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.

1. If the court makes an adoption order, your rights and duties as a parent or guardian will be transferred to the adopters and they will become in law the child's parents. You will then have no further right to see the child or to have the child returned to you. If the adopters live abroad they will probably take the 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, who must see that your wishes are taken into account as far as is practicable, although 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 names and addresses of the societies.

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

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 but the agency arranging the adoption will be glad to describe them and to answer your questions. 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.

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, but the proposed adopters are entitled to refuse to return your child to you 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 Register 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.

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 .....

Regulation 14

SCHEDULE 2

PARTICULARS TO BE ASCERTAINED

PART I

Particulars relating to the *child*

1. Name.

2. Date and place of birth.

3. If baptised, date and place of baptism and denomination.

4. If not baptised, religious persuasion of the child's father and mother.

5. Whether the parents have any wishes regarding the child's religious upbringing and if so, what these wishes are.

6. Name, address and age of the child's father and mother; if either is dead, date of death.

7. If the child is legitimate, whether there have been any court proceedings for separation, divorce or annulment of marriage between the parents of the child and if so whether any orders in respect of the child have been made.

8. If either the father or mother has any other children, the age and sex of each child.

9. Whether there is any history of genetic, transmissible or other significant disease in the family history of either the father's or mother's family.

10. Reason why adoption is being sought for the child and whether adoption has previously been sought for him.

11. Having regard to his age and understanding, what the wishes and feelings of the child are about being adopted.

12. Whether the mother agrees to the child's being adopted, and, if not, her reasons for not agreeing.

13. Whether the father agrees to the child's being adopted, and, if not, his reasons for not agreeing.

14. 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 or the Illegitimate Children (Scotland) Act 1930 or the Guardianship of Minors Act 1971.

15. The names and addresses of the child's guardians (other than the father), how and by whom they were appointed; whether they agree to the child's being adopted, and if not, their reasons for not agreeing.

16. Whether any other body or person has the rights and duties of a parent of the child, the length of time the child has been in the care and possession of that body or person and whether that body or person has any objections to the child's being adopted.

17. Whether the child has any right to or interest in any property.

18. Whether an insurance policy for the payment on the death of the child of money for funeral expenses has been effected.

PART II

Particulars relating to the *proposed adopters*

1. Names.

2. Address.

3. Dates of birth.

4. Religious persuasion.

5. Occupation.

6. Whether the proposed adopters have their home in Great Britain and, if not, the address at which they have their home, if different from 2 above.

7. Whether the proposed adopters are 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 they are domiciled.

8. If the proposed adopters intend to apply for a provisional adoption order, whether they intend to adopt the child in law or in fact in the country in which they are domiciled.

9. 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.

10. If there is only one proposed adopter, whether that person is married, and if so, why the spouse does not join in the application.

Whether the spouse is:
   (a) unable to be found;
   (b) separated and living apart and the separation likely to be permanent; or
   (c) by reason of ill-health, physical or mental, incapable of joining in the application.

11. Particulars of all members of the proposed adopters' household and their relationship (if any) to the proposed adopters.

12. The accommodation in the proposed adopters' home and the condition of the home.

13. The means of the proposed adopters.

14. The names and addresses of two persons selected by the proposed adopters to whom reference can be made as to their character.

15. Whether either of the proposed adopters 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 or section 2 of the Foster Children Act 1980, who has been removed under section 7 or section 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;

(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 or of an offence under Schedule 1 to the Children and Young Persons Act, 1933;

(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, section 2 of the Children Act 1948 or section 3 of the Child Care Act 1980;

(i) been refused registration under the Nurseries and Child-Minders Regulation Act 1948.

If the answer to any of the above questions is yes, give details:—

Regulation 21

SCHEDULE 3

Regulations Revoked

The Adoption Agencies (Scotland) Regulations 1959 (**a**)

The Adoption Agencies (Scotland) Regulations 1961 (**b**)

The Adoption Agencies (Scotland) Regulations 1967 (**c**)

(**a**) S.I. 1959/773. (**b**) S.I. 1961/1270. (**c**) S.I. 1967/34.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make provision with respect to adoption agencies in Scotland. They supersede the Adoption Agencies (Scotland) Regulations 1959 (as amended) and take account of changes resulting from implementation of certain provisions of the Children Act 1975.

Regulations 3 to 9 make provision with respect to the approval of adoption societies by the Secretary of State under section 4 of the Children Act 1975, the prohibition on unincorporated bodies from applying for such approval, and to related matters.

Regulation 10 makes provision for adoption agencies appointing medical advisers.

Regulations 11 and 12 relate to the appointment and composition of adoption panels.

Regulations 13 and 14: Schedules 1 and 2 make provision with respect to the duties of adoption agencies in making arrangements for adoption, including the need to secure and promote the child's welfare and to have regard to the wishes of parents as to the religious upbringing of a child.

Regulation 15 relates to the information and advice to be provided to prospective adopters in respect of a child placed for adoption.

Regulation 16 makes provision for the supervision of a child placed for adoption and for the testing of his blood for specified purposes and in certain circumstances.

Regulations 17 to 20 relate to the disclosure in specified circumstances for certain purposes (including counselling of the adopted person) and to certain persons (including the adopted person) of information relating to an adoption. They also make provision with respect to transfer and preservation of records containing such information.

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