

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 5

Registration

Section 53 - Adopted Children Register and index

192. This section applies to the registration of adoptions by the Registrar General for Scotland (“the Registrar”).
193. By virtue of subsection (1), the Registrar must continue to maintain the Adopted Children Register and an index of the Adopted Children Register.
194. By virtue of subsection (2), entries in the Adopted Children Register must only be made as directed by adoption orders or as required under schedule 1 to the Act.
195. Under subsection (3) the provisions of the Births, Deaths and Marriages (Scotland) Act 1965 (“the 1965 Act”) concerning the correction of errors in entries in the register of births also apply to entries in the Adopted Children Register.

Section 54 - Searches and extracts

196. Subsection (1) applies certain terms, conditions and regulations made under the 1965 Act in respect of searches and the supply of extracts of entries to searches in the index to the Adopted Children Register and supplies of extracts of entries in that Register. Those terms, conditions and regulations concern the payment of fees, and the form and authentication of documents, in respect of searches in indexes which the Registrar General is obliged to keep under the 1965 Act and the supply of extracts of entries in the registers of births, deaths and marriages.
197. By virtue of subsection (2), where a person requests a search to be carried out in accordance with the terms, conditions and regulations applied by subsection (1), the Registrar must, if the General Register Office is open, search (or permit the person to search) the index to the Adopted Children Register and issue to the person an extract of an entry in the Register.

Section 55 - Connections between the register and birth records

198. By virtue of subsection (1), the Registrar General must ensure that there is a traceable connection between any entry in the register of births which has been marked ‘Adopted’ and any corresponding entry in the Adopted Children Register. Subsections (2) and (3) provide that any information which the Registrar General keeps for the purpose of subsection (1) is not open to the public and can only be disclosed in accordance with subsection (4).

199. Subsection (4) provides that such information can only be disclosed if it is disclosed by virtue of an order of the Court of Session or a sheriff, or to an adopted person aged 16 or over to whom the information relates or to a local authority, Board or adoption society which is providing counselling to an adopted person to whom the information relates.
200. By virtue of subsection (5), where such information is disclosed to an adopted person by virtue of subsection (4), the Registrar General must inform the person that counselling services are available. If the adopted person is in Scotland, counselling is available from any local authority in Scotland. If the adopted person is in England and Wales, counselling is available from any local authority in England and Wales. If the adopted person is in Northern Ireland, counselling is available from any Health and Social Services Board in Northern Ireland. If the adopted person is in the United Kingdom and the adoption was arranged by a registered adoption service, counselling is available from that service. If the person is in the United Kingdom and the adoption was arranged by a registered adoption society in England and Wales (as defined in section 2(2) (basic definitions) of the 2002 Act), counselling is available from that society. If the person is in the United Kingdom and the adoption was arranged by an adoption society registered under article 4 of the Adoption (Northern Ireland) Order 1987 (registration of adoption societies), counselling is available from that society.
201. By virtue of subsection (6), when the Registrar General discloses information by virtue of subsection (4) to an adopted person who is in Scotland or when such a person applies for information under Schedule 2 to the 2002 Act (disclosure of birth records by Registrar General) or Article 54 of the Adoption (Northern Ireland) Order 1987 (disclosure of birth records of adopted children) any organisation listed at subsection (7) must provide counselling for the person if requested to do so. These organisations are any local authority in Scotland and any registered adoption service or adoption society mentioned in subsection (5)(d)(ii) or (iii) in so far as that organisation is, by virtue of section 76(2) of the Act, acting as an adoption society in Scotland.

Section 56 - Admissibility of extracts as evidence

202. By virtue of subsection (1) an extract of an entry in the Adopted Children Register, issued by virtue of 54(2)(b) of the Act is, for the purpose of any court proceedings, sufficient evidence of the adoption to which it relates.
203. By virtue of subsection (2), an extract of an entry in the Adopted Children Register, issued by virtue of section 54(2)(b), which shows the date of birth of the adopted person or the country of birth of the adopted person is sufficient evidence of that date or country.

Section 57 - Interpretation of Chapter

204. “Registrar General” is defined for the purposes of this Chapter to mean the Registrar General of Births, Deaths and Marriages for Scotland. This section specifies that any register, index or record maintained under section 53 or 55 of, or schedule 1 to, the Act may be maintained in any form that the Registrar General considers appropriate.