

2003 No. 19

CHILDREN AND YOUNG PERSONS

**The Intercountry Adoption (Hague Convention) (Scotland)
Regulations 2003**

Made 14th January 2003

Laid before the Scottish Parliament 15th January 2003

Coming into force 1st June 2003

ARRANGEMENT OF REGULATIONS

PART 1

General

1. Citation, commencement and extent
2. Interpretation

PART 2

Procedure in Scotland where the United Kingdom is the receiving State

3. Application for assessment of suitability to be an adoptive parent
4. Requirement to provide information
5. Eligibility requirements
6. Duty of the Adoption Agency - case record, police checks and assessment
7. Function of the adoption panel
8. Adoption agency decision, notification and review procedure
9. Procedure following approval by the adoption agency
10. Article 16 report from SOCA and Article 17 agreement
11. Duty of adoption agency before child's arrival in Scotland
12. Child placed with prospective adopter but no Convention adoption is made in the State of origin
13. Duty of prospective adopter to notify local authority
14. Duty of prospective adopters where child is placed with them
15. Return of the child by the prospective adopter
16. Removal of the child by the relevant local authority
17. Breakdown of placement

18. Convention adoptions subject to a probationary period
19. Procedural requirements following a Convention adoption order or Convention adoption - Article 23 of the Convention
20. Refusal of court in Scotland to make a Convention adoption order
21. Annulment of a Convention adoption order or a Convention adoption

PART 3

Procedure in Scotland where the United Kingdom is the State of origin

22. Duty of adoption agency in respect of assessment of child
23. Function of adoption panel in assessing the child
24. Decision and notification in respect of proposed placement
25. Receipt of Article 15 report from RSCA
26. Function of adoption panel in assessing proposed placement
27. Preparation of the Article 16 report for RSCA
28. Procedural requirements following a Convention adoption order or Convention adoption
29. Procedural requirement following receipt of Article 23 Certificate

PART 4

Miscellaneous

30. Requirements prescribed for the purposes of section 17 of the 1978 Act
31. Application, with modifications, of provisions of the 1978 Act
32. Application, with modifications, of provisions of the Adoption Agencies Regulations
33. Savings provisions regarding the Adoption of Children from Overseas (Scotland) Regulations 2001
34. Offences
35. Transitional provision

Schedule 1 Certificate of eligibility and approval

Schedule 2 Certificate that the Convention adoption order has been made in accordance with the Convention

Schedule 3 Application, with modifications, of provisions of the 1978 Act

Schedule 4 Application, with modifications, of the provisions of the Adoption Agencies Regulations

Schedule 5 Specified offences

Schedule 6 Application, with modifications, of the provisions of the 2001 Regulations

The Scottish Ministers, in exercise of the powers conferred by section 1(1) to (3) and (5) of the Adoption (Intercountry Aspects) Act 1999(a) and sections 9(2) and (3) and 50A(1) of the Adoption Act 1978(b), and of all other powers enabling them in that behalf, hereby make the following regulations:

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 and shall come into force on 1st June 2003.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the Act” means the Adoption (Intercountry Aspects) Act 1999;

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

“the 2001 Regulations” means the Adoption of Children from Overseas (Scotland) Regulations 2001(c);

“the Adoption Agencies Regulations” means the Adoption Agencies (Scotland) Regulations 1996(d) subject to the modifications set out in Schedule 4;

“adoption agency” means a local authority or an approved adoption society which is an accredited body for the purposes of the Convention(e);

“adoption panel” has the same meaning as in the Adoption Agencies Regulations;

“contact order” has the same meaning as in section 11(2) of the Children (Scotland) Act 1995(f);

“eligible to adopt”, except in regulations 6(7)(a) and 9(1) has the meaning given in regulation 5;

“local authority” in Part 3 means a local authority acting in its capacity as an adoption agency;

“prospective adopter” in Part 2 means a person who makes an application under regulation 3;

“receiving State” has the same meaning as in the Convention;

“relevant local authority” in Part 2 has the meaning given in regulation 13;

“RSCA” means, in relation to a Convention country other than the United Kingdom, the Central Authority of the receiving State;

“SOCA” means, in relation to a Convention country other than the United Kingdom, the Central Authority of the State of origin;

“State of origin” has the same meaning as in Article 2 of the Convention.

(a) 1999 c.18. Section 1 of the Adoption (Intercountry Aspects) Act 1999 (“the 1999 Act”) enables the Scottish Ministers to make regulations to give effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption concluded at the Hague on 29th May 1993 (“the Convention”). The functions of the Secretary of State transferred to the Scottish Ministers by virtue of section 16(2) of the 1999 Act and section 53 of the Scotland Act 1998 (c.46).

(b) 1978 c.28. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of. Section 53 of the Scotland Act 1998 (c.46).

(c) S.S.I. 2001/236.

(d) S.I. 1996/3266.

(e) See section 2(3) of the 1999 Act.

(f) 1995 c.36.

PART 2

Procedure in Scotland where the United Kingdom is the receiving State

Application for assessment of suitability to be an adoptive parent

3.—(1) A person habitually resident in the British Islands who wishes to adopt a child habitually resident in a Convention country^(a) outside the British Islands shall apply to an adoption agency for assessment of that person's suitability to be an adoptive parent.

(2) An application under this regulation shall be made in writing and shall include such information as the agency may require.

Requirement to provide information

4.—(1) Where an application for assessment is made in accordance with regulation 3, the adoption agency shall—

- (a) explain to the prospective adopter the legal implications of adoption and the procedure in relation to adopting a child under the Convention; and
- (b) provide the prospective adopter with written information about the matters referred to in sub-paragraph (a).

(2) Paragraph (1) does not apply if the adoption agency is satisfied that the requirements set out in paragraph (1) have been carried out in respect of the prospective adopter by another adoption agency.

Eligibility requirements

5. An adoption agency shall not consider a person eligible to adopt unless—

- (a) in the case of an application for assessment under regulation 3 by a married couple, they have both attained the age of 21 years and the requirement prescribed in regulation 30(2)(a) is complied with; or
- (b) in the case of an application for assessment under regulation 3 by any other person, that person has attained the age of 21 years and the requirement prescribed in regulation 30(2)(a) is complied with.

Duty of the adoption agency - case record, police checks and assessment

6.—(1) Where, following the procedures referred to in regulation 4, and subject to regulation 5 and paragraph (3) of this regulation, the adoption agency—

- (a) is satisfied that the prospective adopter is eligible to adopt; and
- (b) considers that person's suitability as an adoptive parent should be assessed, it shall—
 - (i) set up a case record in respect of that person and place on it any information obtained under this regulation; and
 - (ii) ensure that such counselling as may be necessary in connection with the proposed adoption is made available to the prospective adopter.

(2) An adoption agency shall take all reasonably practicable steps to obtain information about any previous criminal convictions (including convictions in England, Wales or Northern Ireland and any police cautions issued in England, Wales or Northern Ireland where the offence in question was admitted at the time the caution was given) in respect of criminal offences which relate to the prospective adopter and any other member of the prospective adopter's household aged 16 years or over.

(3) An adoption agency shall not consider a person to be suitable to be an adoptive parent if that person or any member of their household aged 16 years or over—

- (a) has been convicted of an offence specified in Schedule 5;
- (b) has received a police caution in England, Wales or Northern Ireland in respect of such an offence which, at the time the caution was given, that person admitted.

(a) Section 65(1) of the 1978 Act as amended by section 8 of the 1999 Act defines "Convention country" and "the Convention".

(4) The adoption agency shall notify a prospective adopter in writing as soon as possible after becoming aware that—

- (a) the prospective adopter is not eligible to adopt because that person does not meet the requirements of regulation 5; or
- (b) the prospective adopter is not suitable to be an adoptive parent by virtue of paragraph (3) of this regulation,

and in a case to which sub-paragraph (b) applies the notification shall specify the conviction, or as the case may be, the police caution in question where that conviction or police caution relates to the prospective adopter.

(5) The adoption agency shall obtain such particulars as are referred to in Part IV of Schedule 2 to the Adoption Agencies Regulations together with, so far as is reasonably practicable, any other relevant information which may be requested by the adoption panel.

(6) In a case where the adoption agency is not the local authority in whose area the prospective adopter has their home, it shall obtain a written report about the prospective adopter from that authority.

(7) The adoption agency shall prepare a written report which shall—

- (a) state the Convention country from which the prospective adopter wishes to adopt a child, confirm that person is eligible to adopt a child under the law of that Convention country and provide any other information which that Convention country usually requires;
- (b) include the adoption agency's assessment of the prospective adopter's suitability to be an adoptive parent;
- (c) include any other observations of the adoption agency on the matters referred to in regulation 5 and this regulation; and
- (d) include any other information about the prospective adopter of the type specified in Article 15(1) of the Convention.

(8) The adoption agency shall notify the prospective adopter that the prospective adopter's application is to be referred to the adoption panel and at the same time, send that person a copy of the adoption agency's report referred to in paragraph (7) (excluding any information from third parties given in confidence), inviting that person to send any observations in writing to the adoption agency on the report within 14 days, beginning with the date on which the notification was sent.

(9) At the end of the period of 14 days referred to in paragraph (8), (or earlier if any observations made by the prospective adopter are received before the 14 day period has expired), the adoption agency shall pass the report referred to in paragraph (7) together with all relevant information obtained by it under this regulation (including the prospective adopter's observations on the report), to the adoption panel.

Function of the adoption panel

7.—(1) Subject to paragraph (2), the adoption panel shall consider the case of the prospective adopter referred to it by the adoption agency and shall make a recommendation to the adoption agency as to whether the prospective adopter is suitable to be an adoptive parent.

(2) In considering what recommendation to make, the adoption panel—

- (a) shall consider and take into account all information and reports passed to it in accordance with regulation 6(9);
- (b) shall give the prospective adopter the opportunity to meet with the adoption panel and discuss the information and reports obtained under regulation 6(9);
- (c) may request the agency to obtain any other relevant information which the panel considers necessary; and
- (d) may obtain legal advice as it considers necessary in relation to the case.

Adoption agency decision, notification and review procedure

8.—(1) The adoption agency shall take into account the recommendation of the adoption panel in coming to a decision about whether the prospective adopter is suitable to be an adoptive parent and shall make that decision within 14 days after the date of the recommendation of the adoption panel.

(2) No member of an adoption panel shall take part in any decision made by the adoption agency under paragraph (1).

(3) If the adoption agency decides to approve the prospective adopter as suitable to be an adoptive parent, it shall notify the prospective adopter in writing of its decision within 7 days after the date of the decision under paragraph (1).

(4) If the adoption agency considers that the prospective adopter is not suitable to be an adoptive parent, it shall—

- (a) notify the prospective adopter in writing that it proposes not to approve that person as suitable to be an adoptive parent within 7 days after the date of a decision under paragraph (1) (the “decision”);
- (b) send with that notification its reasons together with a copy of the recommendations of the adoption panel, if different;
- (c) notify the prospective adopter in writing that the prospective adopter may require the decision to be reviewed within 28 days after the date of notification; and
- (d) invite the prospective adopter to submit any representations regarding the decision that person wishes to make within 28 days after the date of notification.

(5) If within the period of 28 days referred to in paragraph (4), the prospective adopter has not made any representations and a request for review, the adoption agency shall proceed to confirm the decision and shall notify the prospective adopter in writing of the confirmed decision together with the reasons for the decision.

(6) If within the period of 28 days referred to in paragraph (4), the adoption agency receives further representations from the prospective adopter and the prospective adopter indicates that the decision should be reviewed, it shall refer the case together with all the relevant information (including the further representations) to the adoption panel for further consideration.

(7) The adoption panel shall reconsider any case referred to it under paragraph (6) and make a fresh recommendation to the adoption agency as to whether the prospective adopter is suitable to be an adoptive parent.

(8) The adoption agency shall make a decision (the “reviewed decision”) on the case within 14 days after the date of any fresh recommendation of the adoption panel under paragraph (7) and shall make the reviewed decision only after taking into account any fresh recommendation of the adoption panel made under paragraph (7).

(9) Within 7 days after making the reviewed decision under paragraph (8), the adoption agency shall notify the prospective adopter in writing of its reviewed decision, stating its reasons for that decision if they do not consider the prospective adopter to be suitable to be an adoptive parent, and of the adoption panel’s recommendation, if this is different from the adoption agency’s reviewed decision.

Procedure following approval by the adoption agency

9.—(1) Where the adoption agency is satisfied that the prospective adopter is eligible to adopt a child under the law of Scotland and has approved the prospective adopter as suitable to be an adoptive parent (“its decision”) it shall send to the Central Authority within 7 days after the date of making its decision—

- (a) written confirmation of its decision; and
- (b) a copy of the report prepared for the purpose of regulation 6(7).

(2) The Central Authority may seek further information from the adoption agency, if the Authority considers it is appropriate to do so.

(3) If the Central Authority is satisfied that the adoption agency has complied with these Regulations and that all the relevant information has been supplied by that adoption agency, the Central Authority shall send to SOCA—

- (a) a certificate in the form set out in Schedule 1 confirming that –
 - (i) the prospective adopter is eligible to adopt;
 - (ii) the prospective adopter has been assessed in accordance with these Regulations;
 - (iii) the prospective adopter has been approved as suitable to be an adoptive parent; and
 - (iv) the child will be authorised to reside permanently within the United Kingdom if entry clearance and leave to enter or remain as may be necessary, is granted and not revoked or curtailed and a Convention adoption order or Convention adoption is made;
 and
- (b) the documents referred to in paragraph (1)(a) and (b) of this regulation.

(4) The Central Authority shall notify the adoption agency and the prospective adopter in writing that the certificate and the documents have been sent to SOCA.

Article 16 report from SOCA and Article 17 Agreement

10.—(1) Where the Central Authority receive from SOCA the report and additional information specified in Article 16 of the Convention relating to the child whom SOCA considers should be placed for adoption with the prospective adopter, the Central Authority shall send that report and the additional information (“the documents”) to the adoption agency.

- (2) The adoption agency shall consider the documents and shall–
 - (a) send the report about the child to the prospective adopter; and
 - (b) meet with the prospective adopter to–
 - (i) discuss the report and the proposed placement; and
 - (ii) offer such counselling as may be necessary in connection with the proposed adoption.

(3) The prospective adopter (or where the prospective adopter is a married couple and there are exceptional circumstances, one of them) shall visit the child in the State of origin before the prospective adopter may give notice to the adoption agency that the prospective adopter wishes to proceed with the proposed adoption.

(4) Following any agreement under Article 17(c) of the Convention and the placement of the child with the prospective adopter by SOCA, the prospective adopter or, in exceptional circumstances, a nominee of the prospective adopter who has been approved by the adoption agency shall accompany the child on entering the United Kingdom.

- (5) Where–
 - (a) the procedure set out in paragraph (2) has been followed; and
 - (b) the prospective adopter has informed the adoption agency in writing that–
 - (i) the prospective adopter (or where the prospective adopter is a married couple and there are exceptional circumstances, one of them) has visited the child in the State of origin; and
 - (ii) the prospective adopter wishes to proceed to adopt the child,

the adoption agency shall notify the Central Authority accordingly and at the same time confirm that it is satisfied that there are no impediments to the adoption proceeding.

(6) Where the Central Authority has received notification from the adoption agency under paragraph (5), the Central Authority shall–

- (a) notify SOCA that
 - (i) the prospective adopter wishes to proceed to adopt the child;
 - (ii) the Central Authority is prepared to agree with SOCA that the adoption may proceed; and
- (b) confirm to SOCA that–
 - (i) in the case where the requirements specified in section 1(5A) of the British Nationality Act 1981(a) are met that the child will be authorised to enter and reside permanently in the United Kingdom; and

(a) 1981 c.61.

- (ii) in any other case, if entry clearance and leave to enter and remain, as may be necessary, is granted and not revoked or curtailed and a Convention adoption order or a Convention adoption is made, the child will be authorised to enter and reside permanently in the United Kingdom.

(7) The Central Authority shall inform the adoption agency and the prospective adopter when the agreement under Article 17(c)(a) of the Convention has been made.

(8) If, at any stage before the agreement under Article 17(c) of the Convention is made, SOCA notifies the Central Authority that it has decided the proposed placement should not proceed, then—

- (a) the Central Authority shall inform the adoption agency of SOCA's decision;
- (b) the adoption agency shall then inform the prospective adopter of that decision and return the documents to the Central Authority; and
- (c) the Central Authority shall then return the documents to SOCA.

(9) If, at any stage before the child is placed with the prospective adopter, the prospective adopter notifies the adoption agency that the prospective adopter does not wish to proceed with the adoption of the child, the adoption agency shall inform the Central Authority and return the documents to that Central Authority who shall in turn notify SOCA of the prospective adopter's decision and return the documents to SOCA.

Duty of adoption agency before child's arrival in Scotland

11. Where the adoption agency is informed by the Central Authority that the agreement under Article 17(c) of the Convention has been made and the adoption may proceed, the adoption agency shall—

- (a) send a written report of the child's health history and current state of health, so far as it is known, to the prospective adopter's registered medical practitioner, if any, together with particulars of the placement;
- (b) in a case where the adoption agency is not the local authority within whose area the prospective adopter has their home, notify that authority of the particulars of the placement; and
- (c) notify the local education authority within whose area the prospective adopter has their home in writing of the particulars of the placement if the child is of compulsory school age within the meaning of section 31 of the Education Act (Scotland) 1980(b) or if the adoption agency's medical adviser(c) considers the child either—
 - (i) to have a problem of medical significance;
 - (ii) to have special educational needs; or
 - (iii) to be disabled.

Child placed with prospective adopter but no Convention adoption is made in the State of origin

12. Regulations 13 to 17 apply where, following agreement between the Central Authority and SOCA under Article 17(c) of the Convention that the adoption may proceed, no Convention adoption is made, or applied for, in the State of origin but the child is placed with the prospective adopter by SOCA and the prospective adopter (or the nominee appointed in terms of regulation 10(4)) then returns to Scotland with the child.

Duty of prospective adopter to notify local authority

13. A prospective adopter to whom regulation 12 applies shall, within the period of fourteen days beginning with the date on which that person (or the nominee) brings the child into the United Kingdom, give notice to the local authority within whose area that person has their home ("the relevant local authority") of—

(a) Article 17 sets out the conditions which must be satisfied before a decision may be made by the State of origin that a child may be placed with prospective adopters. The condition contained in Article 17(c) is that the Central Authority of the State of origin and the receiving State has agreed that the adoption may proceed.

(b) 1980 c.44.

(c) See regulation 6(1) of the Adoption Agencies Regulations.

- (a) that person's intention to apply for an adoption order to be made as a Convention adoption order in accordance with section 22 of the 1978 Act; or
- (b) that person's intention not to proceed with the adoption.

Duty of prospective adopters where child is placed with them

14.—(1) The prospective adopter with whom the child is placed shall not be obliged to allow the child to visit or stay with any person, or otherwise to allow contact between the child and any person, except under and in terms of a contact order.

(2) Subject to paragraphs (3) and (4), the prospective adopter shall not cause or permit—

- (a) the child to be known by a new surname; or
- (b) the child to be removed from the United Kingdom,

unless the court gives leave or the relevant local authority agrees.

(3) Paragraph (2)(a) does not apply if the competent authority of the State of origin has agreed that the child may be known by a new surname.

(4) Paragraph (2)(b) does not prevent the removal of the child for a period of less than one month by the prospective adopter.

Return of the child by the prospective adopter

15. Where the child is placed with the prospective adopter or regulation 18 applies and the prospective adopter gives notice to the relevant local authority that the prospective adopter does not wish to proceed with the adoption and no longer wishes to give the child a home, that authority shall—

- (a) receive the child from the prospective adopter before the end of the period of 7 days beginning with the giving of such notice; and
- (b) notify the Central Authority of the prospective adopter's decision not to proceed with the adoption.

Removal of the child by the relevant local authority

16.—(1) Subject to paragraph (4), where the child is placed with the prospective adopter or regulation 18 applies and the relevant local authority are of the opinion that—

- (a) the continued placement of the child with the prospective adopter is not in the child's best interests; and
- (b) the child should not remain with the prospective adopter,

that local authority shall give notice to the prospective adopter of their opinion.

(2) The prospective adopter shall, not later than the end of the period of 7 days beginning with the giving of notice under paragraph (1), surrender the child to the relevant local authority.

(3) Where the relevant local authority gives notice under paragraph (1), it shall also give notice to the Central Authority that it has requested the surrender of the child.

(4) Where a notice under paragraph (1) is given, but—

- (a) before the notice was given an application for a Convention adoption order was made; and
- (b) that application has not been disposed of,

the prospective adopter shall not be obliged by virtue of the notice to return the child to the relevant local authority unless the court so orders.

(5) This regulation does not affect the exercise by any local authority or other person of any power conferred by any enactment or the exercise of any power of arrest.

Breakdown of placement

17.—(1) This regulation applies where—

- (a) the prospective adopter notifies the relevant local authority under regulation 15 that the prospective adopter does not wish to proceed with the adoption;

- (b) the relevant local authority has removed the child from the home of the prospective adopter whether in accordance with regulation 16 or under any other power competent to it; or
- (c) an application for a Convention adoption order is refused, or a Convention adoption or a Convention adoption order is annulled pursuant to section 53(1) of the 1978 Act^(a).

(2) Before coming to any decision under this regulation, the relevant local authority shall have regard to the wishes and feelings of the child, having regard to the child's age and understanding, and, where appropriate, obtain the child's consent in relation to measures to be taken under this regulation.

(3) Where the relevant local authority is satisfied that it would be in the child's best interests to be placed for adoption with another prospective adopter habitually resident in the United Kingdom it shall seek to identify a suitable adoptive parent for the child.

(4) Where the relevant local authority has identified another prospective adopter who is eligible to adopt and has been assessed in accordance with these Regulations (or their equivalent applying elsewhere in the British Islands) and approved as suitable to be an adoptive parent in accordance with regulations 3 to 8, that authority shall inform the Central Authority and the requirements specified in regulation 9(1) shall apply so that it may, in turn, inform SOCA of the proposed placement and agree that placement with SOCA in accordance with the procedures set out in Part 2 of these Regulations.

- (5) Where the Central Authority has received notice in terms of paragraph (4), it shall—
 - (a) notify SOCA of the proposed placement; and
 - (b) seek to agree that placement with SOCA in accordance with the provisions in this Part of these Regulations.

(6) Where the relevant local authority is not satisfied that it would be in the child's best interests to be placed for adoption with another prospective adopter in the United Kingdom, it shall liaise with the Central Authority to arrange for the return of the child to that child's State or origin.

Convention adoptions subject to a probationary period

18.—(1) This regulation applies where—

- (a) the child has been placed with the prospective adopters by the competent authority of the State of origin;
- (b) a Convention adoption has been applied for by the prospective adopter in the State of origin but the child's placement with the prospective adopter is subject to a probationary period before the Convention adoption is made; and
- (c) either the prospective adopter returns to Scotland with the child or the child travels to Scotland with a nominee appointed in terms of regulation 10(4), before that probationary period is completed and before the Convention adoption is made in the State of origin.

(2) The relevant local authority shall, if requested by the competent authority of the State of origin, submit a report about the placement to that authority and such a report must be prepared within such timescale and shall contain such information as the competent authority may reasonably require.

Procedural requirements following a Convention adoption order or Convention adoption

19.—(1) Where a Convention adoption order is made by a court in Scotland, the court shall send a copy of that order to the Central Authority.

(2) On receipt of an order sent under paragraph (1), the Central Authority shall issue a certificate in the form set out in Schedule 2 certifying that the adoption has been made in accordance with the Convention.

- (3) A copy of the certificate issued under paragraph (2) shall be sent to—
 - (a) SOCA;
 - (b) the adoptive parents; and
 - (c) the adoption agency and, if different, the relevant local authority.

(a) Section 53(1) of the 1978 Act was amended by section 6 of the 1999 Act.

(4) Where the Central Authority receive a certificate under Article 23 of the Convention in respect of a Convention adoption made in that Convention country, the Central Authority shall send a copy of that certificate to—

- (a) the adoptive parents; and
- (b) the adoption agency.

Refusal of court in Scotland to make a Convention adoption order

20.—(1) Where an application for a Convention adoption order is refused by the court the prospective adopter shall surrender the child to the relevant local authority within the period determined by the court for that purpose.

(2) Subject to paragraph (3), where an application for a Convention adoption order is withdrawn and the prospective adopter notifies the adoption agency that the prospective adopter does not intend to submit a fresh application for a Convention adoption order, then the prospective adopter shall surrender the child to the relevant local authority within 7 days after such notification.

(3) Notwithstanding paragraph (2), where an application for a Convention adoption order is withdrawn and a fresh application for a Convention adoption order has not been submitted to the court within 28 days after the date of such withdrawal or such longer period as the relevant local authority may agree in writing, the prospective adopter shall surrender the child to the relevant local authority within 7 days of the expiry of that period.

Annulment of a Convention adoption order or a Convention adoption

21. Where a Convention adoption order or a Convention adoption is annulled under section 53(1) of the 1978 Act the court shall send a copy of the order to—

- (a) the Central Authority for onward transmission to SOCA;
- (b) the adoptive parents; and
- (c) the adoption agency and, if different, the relevant local authority.

PART 3

Procedure in Scotland where the United Kingdom is the State of origin

Duty of adoption agency in respect of assessment of child

22.—(1) This regulation applies where—

- (a) a local authority—
 - (i) has decided that adoption is in the best interests of a child under regulation 11(1) of the Adoption Agencies Regulations;
 - (ii) has considered the possibilities for placement of that child within the British Islands; and
 - (iii) considers that adoption by a person habitually resident in a Convention country outside the British Islands may be in the child's best interests; and
- (b) the child is free for adoption by virtue of an order made under section 18 of the 1978 Act, section 18 of the Adoption Act 1976(a) or Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987(b).

(2) The local authority shall refer the case of the child to the adoption panel together with—

- (a) the documents referred to in regulation 8 of the Adoption Agencies Regulations originally sent to the adoption panel; and
- (b) a report from the child's social worker—
 - (i) explaining why that social worker considers that adoption by a person habitually resident in a Convention country outside the British Islands may be in the child's best interests; and

(a) 1976 c.36.
(b) S.I. 1987/2204.

- (ii) if appropriate, having regard to the child's age and understanding, setting out the child's views and wishes in relation to adoption.

Function of the adoption panel in assessing the child

23.—(1) The adoption panel shall consider the case of the child and make a recommendation to the local authority as to whether adoption by a person habitually resident in a Convention country outside the British Islands is in the best interests of the child.

(2) In considering what recommendation to make, the adoption panel shall have regard to the duties imposed upon the local authority by sections 6, 6A and 7 of the 1978 Act (duty to promote the welfare of the child and religious upbringing of adopted child) and shall—

- (a) consider and take into account all of the information and the reports passed to it under regulation 22(2);
- (b) request the local authority to obtain any other relevant information which the panel considers necessary; and
- (c) obtain legal advice in relation to the case as may be necessary.

Decision and notification

24.—(1) The local authority shall make a decision on the matter referred to the adoption panel within 14 days after the date of recommendation by the adoption panel and shall do so only after taking into account the recommendation of the adoption panel.

(2) No member of an adoption panel shall take part in any decision made by the local authority under paragraph (1).

(3) The local authority shall, within 7 days of making its decision, notify the Central Authority of—

- (a) the name and age of the child;
- (b) the reasons why they consider that the child may be suitable for adoption by a person habitually resident in a Convention country outside the British Islands;
- (c) the date on which the freeing order under section 18 of the Adoption Act 1976, section 18 of the 1978 Act or Article 17 (1) or 18 (1) of the Adoption (Northern Ireland) Order 1987 was made; and
- (d) any other information that Authority may require.

(4) The Central Authority shall maintain a list of children who are notified to it under paragraph (3).

(5) The Central Authority shall make the contents of the Convention list available for inspection by the other central authorities within the British Islands on request.

(6) In the event that a local authority either completes an alternative placement for a child who is the subject of a notification in terms of paragraph (3) or otherwise determines that adoption by a person habitually resident in a Convention Country outside the British Islands is no longer in the best interests of such a child, that local authority shall notify the Central Authority of that fact and the Central Authority shall amend the Convention list accordingly.

(7) Subject to paragraph (8), within 7 days of the decision under paragraph (1), the local authority shall notify in writing the parents of the child including, where the local authority considers this to be in the child's best interests, the father or mother of the child who is a parent in terms of section 15 (1) of the Children (Scotland) Act 1995 but who does not have parental responsibilities, or the guardian of the child if their whereabouts are known to the local authority, that the child has been approved in principle for adoption in a Convention country outside the British Islands.

(8) No notification shall be given in terms of paragraph (7) to a person who has made a declaration under section 18 (6) or 19 (4) of the 1978 Act (declaration as to no further involvement with the child) and has not withdrawn that declaration under section 19 of the 1978 Act.

(9) In this regulation and in regulation 25 "Convention list" means—

- (a) in relation to the Central Authority, a list of children notified to that authority in accordance with paragraph (3); or

- (b) in relation to any other central authority within the British Islands, a list of children notified to that Authority in accordance with provisions which correspond to paragraph (3).

Receipt of Article 15 report from RSCA

25.—(1) This regulation applies where—

- (a) the Central Authority receives a report (“the Article 15 report”) from the RSCA which has been prepared for the purposes of Article 15 of the Convention;
- (b) the Article 15 report relates to a prospective adopter who is habitually resident in the receiving State and has applied for a determination as to suitability and eligibility to adopt in terms of Article 5 of the Convention (a “Convention prospective adopter”); and
- (c) the Convention prospective adopter wishes to adopt a child who is habitually resident in Scotland.

(2) If the Central Authority is satisfied that the Convention prospective adopter meets those requirements as to age and marital status which are required to be met if an adoption order were to be made in Scotland in favour of that person, the Central Authority shall consult the Convention list and, if the Central Authority considers it appropriate, consult any Convention list maintained by another central authority within the British Islands.

(3) The Central Authority may pass a copy of the Article 15 report to the other Central authorities within the British Islands for the purpose of enabling those authorities to consult their Convention list.

(4) Where the Central Authority identifies a child who may be suitable to be adopted by the Convention prospective adopter, it shall send the Article 15 report to the local authority which referred the child’s details to the Central Authority.

(5) The local authority shall consider the report and where it considers that it may be appropriate to place the child for adoption with the Convention prospective adopter it shall refer the proposed placement for adoption to the adoption panel together with—

- (a) the Article 15 report;
- (b) the documents referred to in regulation 22(2);
- (c) its observations on the proposed placement; and
- (d) any other relevant information about the child.

Function of adoption panel in assessing proposed placement

26.—(1) The adoption panel shall consider the proposed placement referred to it by the local authority under regulation 25(5) and make a recommendation to the local authority, as to whether—

- (a) the Convention prospective adopter is a suitable adoptive parent for the child; and
- (b) the proposed placement is in the best interests of the child.

(2) In considering what recommendation to make under paragraph (1), the adoption panel—

- (a) shall have regard to the child’s upbringing and the child’s ethnic, religious and cultural background;
- (b) shall have regard to the duties imposed upon it by sections 6, 6A and 7 of the 1978 Act (duty to promote welfare of child and religious upbringing of adopted child);
- (c) shall have regard to the documents referred to it under regulation 25(5);
- (d) may ask the local authority to obtain any other relevant information which the panel considers necessary; and
- (e) may obtain legal advice as it considers necessary in relation to the case.

(3) The local authority shall make a decision about the proposed placement within 14 days after the date of decision by the adoption panel and shall do so only after having taken into account the recommendations of the adoption panel.

(4) No member of an adoption panel shall take part in any decision made by the local authority under paragraph (3).

(5) Subject to paragraph (6), within 7 days of the decision under paragraph (3), the local authority shall notify in writing the parents of the child including, where the local authority considers this to be in the child’s best interests, the father or mother of the child who is a parent in

terms of section 15 (1) of the Children (Scotland) Act 1995 but who does not have parental responsibilities, or the guardian of the child if their whereabouts are known to the local authority, that the child has been placed for adoption in a Convention country outside the British Islands.

(6) No notification shall be given in terms of paragraph (5) to a person who has made a declaration under section 18 (6) or 19 (4) of the Act (declaration as to no further involvement with the child) and has not withdrawn that declaration under section 19 of the Act.

Preparation of the Article 16 report for RSCA

27.—(1) Where the local authority decides under regulation 26 that the proposed placement is in the best interests of the child and the adoption may proceed, it shall prepare a report for the purposes of Article 16 of the Convention (“the Article 16 report”) which shall include—

- (a) information about the child’s identity, suitability for adoption, background, social environment, family history, medical history including that of the child’s family, and any special needs of the child; and
- (b) the reasons for its decision.

(2) The local authority shall, within 14 days of the date of the decision under paragraph 26(3), send the Article 16 report to the Central Authority together with the evidence that a freeing order has been made in respect of the child.

(3) The Central Authority shall send the Article 16 report and other information referred to it in paragraph (2) to the RSCA.

(4) The Central Authority may notify the RSCA that it is prepared to agree that the adoption may proceed:

Provided that the RSCA has confirmed that—

- (a) the Convention prospective adopter has agreed to adopt the child and has received such counselling as may be necessary;
- (b) the Convention prospective adopter has confirmed that either—
 - (i) the Convention prospective adopter will accompany the child to the receiving State; or
 - (ii) in exceptional circumstances, the child will be accompanied by a nominee of the Convention prospective adopter who has been approved by the local authority;
- (c) it is content for the adoption to proceed; and
- (d) the child is or will be authorised to enter and reside permanently in the Convention country if a Convention adoption is made in that Convention country or a Convention adoption order is made in the United Kingdom.

(5) The Central Authority may not make an agreement under Article 17(c) of the Convention with the RSCA unless the local authority have confirmed that –

- (a) it has met the Convention prospective adopter;
- (b) the Convention prospective adopter (or, where the Convention Prospective adopter is a married couple and there are exceptional circumstances, one of them) has visited the child; and
- (c) it is content for the adoption to proceed.

(6) A local authority shall not place a child for adoption with a Convention prospective adopter unless the agreement under Article 17(c) of the Convention has been made and the relevant Central Authority shall advise the local authority when that agreement has been made.

Procedural requirements following a Convention adoption order or Convention adoption

28.—(1) Where a Convention adoption order is made by a court in Scotland, the court shall send a copy of that order to the Central Authority.

(2) On receipt of an order under paragraph (1), the Central Authority shall issue a certificate in the form set out in Schedule 2 certifying that the Convention adoption order has been made in accordance with the Convention.

- (3) A copy of the certificate shall be sent to—
 - (a) the RSCA; and

- (b) the local authority.

Procedural requirements following receipt of Article 23 certificate

29. Where the Central Authority receives a certificate in terms of Article 23 of the Convention from the RSCA, it shall send a copy of that certificate to—

- (a) the local authority; and
- (b) the Registrar General for Scotland.

PART 4

Miscellaneous

Requirements prescribed for the purposes of section 17 of the 1978 Act

30.—(1) The requirements which must be complied with for the purposes of section 17 of the 1978 Act are those prescribed in paragraphs (2) and (3).

- (2) Where the United Kingdom is the receiving State the requirements are that—
 - (a) both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) have been habitually resident in part of the British Islands for a period of not less than 1 year ending with the date of the application;
 - (b) the child to be adopted—
 - (i) has not attained the age of 18 years on the date of the application for a Convention adoption order;
 - (ii) was, on the date on which the agreement under Article 17(c) was made, habitually resident in a Convention country outside the British Islands; and
 - (iii) has, if over the age of twelve years, consented to the making of the Convention adoption order except where the court is satisfied that the child is incapable of giving consent to the making of the order; and
 - (c) in a case where the applicant (in the case of an application by one person) or one of the spouses (in the case of an application by a married couple) is not a British citizen by virtue of section 1 of the British Nationality Act 1981(a), the Home Office has confirmed that the child is authorised to enter and reside permanently in the United Kingdom.
- (3) Where the United Kingdom is the State of origin the requirements are that—
 - (a) both spouses (in the case of an application by a married couple) or the applicant (in the case of an application by one person) are habitually resident in a Convention country outside the British Islands on the date of the application; and
 - (b) the child to be adopted—
 - (i) has not attained the age of 18 years on the date of the application for a Convention adoption order;
 - (ii) is free for adoption by virtue of an order made under section 18 of the 1978 Act, section 18 of the Adoption Act 1976, or Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987; and
 - (iii) is habitually resident in part of the British Islands on the date of the application.

Application, with modifications, of provisions of the 1978 Act

31. The provisions of the 1978 Act set out in column 1 of Schedule 3 to these Regulations shall have effect with the modifications set out in column 2 of that Schedule in relation to Convention adoption orders and Convention adoptions.

Application, with modifications, of provisions of the Adoption Agencies Regulations

32. The provisions of the Adoption Agencies Regulations set out in column 1 of Schedule 4 to these Regulations shall have effect with the modifications set out in column 2 of that Schedule in relation to Convention adoption orders and Convention adoptions.

(a) 1981 c.61.

Application with modifications of the provisions of the 2001 Regulations

33. The provisions of the 2001 Regulations set out in Column 1 of Schedule 6 to these Regulations shall have effect with the modifications set out in Column 2 of that Schedule in relation to Convention adoptions or to Convention adoption orders.

Offences

- 34.** Any person who contravenes or fails to comply with—
- (a) regulation 13 (notification to local authority);
 - (b) regulation 16(2) (surrender of child to local authority);
 - (c) regulation 16(4) (surrender of child as ordered by the Court);
 - (d) regulation 20(1) (refusal of Court to make a Convention adoption order);
 - (e) regulation 20(2) (surrender of child after notification of withdrawal); or
 - (f) regulation 20(3) (surrender of child after deemed withdrawal)

without reasonable excuse is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 5 on the standard scale, or both.

Transitional provision

35.—(1) These Regulations shall not apply in relation to the case of any prospective adopter who wishes to adopt a child from a Convention country outside the British Islands which has not been referred, before the date that these Regulations come into force, by the adoption agency (dealing with the case) to the adoption panel.

(2) No application may be made for a Convention adoption order under section 17 of the 1978 Act unless the arrangements for the adoption of the child have been made in accordance with these Regulations.

CATHY JAMIESON
A member of the Scottish Executive

St Andrew's House,
Edinburgh
14th January 2003

SCHEDULE 1

Certificate of eligibility and approval

To the Central Authority of the State of origin

Re [name of applicant]

In accordance with Article 5 of the Convention, I hereby certify on behalf of the Central Authority for Scotland that [name of applicant] has been counselled as necessary, is eligible to adopt and has been assessed and approved as suitable to adopt a child from [State of origin] by [a local authority in Scotland or an accredited body for the purpose of the Convention].

The attached report has been prepared in accordance with Article 15 of the Convention for presentation to the competent authority in [State of origin].

This certificate of eligibility and approval and the report under Article 15 of the Convention are provided on the condition that a Convention adoption or Convention adoption order will not be made until the agreement under Article 17(c) of the Convention has been made.

I confirm on behalf of the Central Authority that if, following the agreement under Article 17(c) of the Convention—

- [(i) the requirements specified in section 1(5A) of the British Nationality Act 1981 are met, the child[name] will be authorised to enter and reside permanently in the United Kingdom] OR
- [(ii) if entry clearance and leave to enter and remain, as may be necessary, is granted and not revoked or curtailed and a Convention adoption order or Convention adoption is made, the child[name] will be authorised to enter and reside permanently in the United Kingdom.]

Signed

On behalf of the Scottish Ministers

Central Authority for Scotland

SCHEDULE 2

Certificate that the Convention adoption order has been made in accordance with the Convention

1. The Central Authority as the competent authority for Scotland being the country in which the Convention adoption order was made hereby certifies, in accordance with Article 23(1) of the Convention, that the child:

- (a) name: (name on birth certificate, also known as/now known as]
sex:
date and place of birth:
habitual residence at the time of adoption
State of origin

- (b) was adopted on
by order made by court in Scotland

(c) by the following person(s):

- (i) - family name and first name(s):
- sex:
- date and place of birth:
- habitual residence at the time of the adoption:
-
- occupation at the time of the adoption:
- (ii) - family name and first name(s):
- sex:
- date and place of birth:
- habitual residence at the time of the adoption:
-
- occupation at the time of the adoption:

2. The competent authority for Scotland in pursuance of Article 23(1) of the Convention hereby certifies that the adoption was made in accordance with the Convention and that the agreements under Article 17(c) were given by:

- (a) - Name and address of the Central Authority in the State of origin:
.....
Date of the agreement:

(a) - Name and address of the Central Authority in the State of origin:

.....

Date of the agreement:

Signed Date.....

SCHEDULE 3

Application, with modifications, of the provisions of the 1978 Act

<i>Column 1</i> <i>Provisions of the 1978 Act</i>	<i>Column 2</i> <i>Modifications</i>
Section 12 (adoption order)	As if there were inserted at the end “ (10) An adoption order may not be made in relation to a person who has attained the age of 19 years.”
Section 13 (child to live with adopters before order made)	As if for the words in sub-section (1) “placed with the applicants by an adoption agency” there were substituted the words “entrusted by the applicants, in relation to a Convention country other than the United Kingdom, by the Central Authority of the state of origin”
Section 16 (parental agreement)	As if for sub-section (1) there were substituted “(1) A convention adoption order shall not be made unless an agreement under Article 17(c) of the Convention has been made in respect of the child”, and sub-section (2) was omitted
Section 22 (notification to local authority of adoption application)	As if for the words in sub-section (1) “not placed with the applicant by an adoption agency” there were substituted the words “entrusted to the applicants by a competent authority within the meaning of Article 23 of the Convention”
Section 27 (restrictions on removal where adoption agreed)	As if for subsection (1) there were substituted “(1) where an application for a Convention adoption order is pending the parent or guardian is not entitled to remove the child from the home of the applicant except with the leave of the court.”, and sub-section (2) was omitted
Sections 30 (return of children placed for adoption by adoption agencies) and 31 (application of section 30 where child not placed for adoption)	As if sections 30 and 31 were omitted

SCHEDULE 4

Application, with modifications, of the provisions of the Adoption Agencies Regulations

<i>Column 1</i> <i>Provision of the Adoption Agencies Regulations</i>	<i>Column 2</i> <i>Modifications</i>
Regulations 9, 10, 11, 12 and 19	As if regulations 9, 10, 11, 12 and 19 were omitted
Regulation 21	In cases where Scotland is the Receiving State under part 3 of these Regulations, as if regulation 21 was omitted
Regulation 23	As if in paragraph (2) for the words “these Regulations” there were substituted the words “the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003”

SCHEDULE 5

Specified offences

Offences in England and Wales

1. An offence under section 1 of the Sexual Offences Act 1956 (rape).
2. An offence specified in Schedule 1 to the Children and Young Persons Act 1933 except for—
 - (a) the offence of common assault or battery; or
 - (b) in a case where the offender was under 20 at the time the offence was committed, an offence contrary to sections 6, 12 or 13 of the Sexual Offences Act 1956 (sexual intercourse with a girl between 13 and 16, buggery or indecency between men); or
 - (c) in a case where the offender was under 18 at the time the offence was committed, an offence contrary to section 47 of the Offences Against the Person Act 1861 (assault occasioning actual bodily harm).
3. An offence under section 1(1) of the Indecency with Children Act 1960 (indecent conduct towards young child).
4. An offence under section 54 of the Criminal Law Act 1977 (inciting a girl under 16 to have incestuous sexual intercourse).
5. An offence contrary to section 1 of the Protection of the Children Act 1978 (indecent photographs of children).
6. An offence contrary to section 160 of the Criminal Justice Act 1988 (the possession of indecent photographs of children).
7. An offence contrary to section 170 of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16.

Offences in Scotland

8. An offence of rape.
9. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995 except for—
 - (a) in a case where the offender was under 18 at the time the offence was committed, an offence of assault; or
 - (b) in a case where the offender was under 20 at the time the offence was committed, an offence contrary to section 5 of the Criminal Law (Consolidation) (Scotland) Act 1995 (intercourse with a girl between 13 and 16), an offence of shameless indecency between men or an offence of sodomy.
10. An offence under section 170 of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16.
11. An offence under sections 52 and 52A of the Civic Government (Scotland) Act 1982 (indecent photographs).

Offences in Northern Ireland

12. An offence of rape.

- 13.** An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968, except for–
- (a) the offence of common assault or battery; or
 - (b) in a case where the offender was under 20 at the time the offence was committed, an offence contrary to sections 5 or 11 of the Criminal Law Amendment Act 1885 (unlawful carnal knowledge of a girl under 17 and gross indecency between males), or an offence contrary to section 61 of the Offences against the Person Act 1861 (buggery);
 - (c) in a case where the offender was under 18 at the time the offence was committed, an offence contrary to section 47 of the Offences Against the Person Act 1861 (assault occasioning actual bodily harm).
- 14.** An offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs).
- 15.** An offence contrary to Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting a girl under 16 to have incestuous sexual intercourse).
- 16.** An offence contrary to Article 15 of the Criminal Justice (Evidence etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children).
- 17.** An offence An offence contrary to section 170 of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16.

SCHEDULE 6

Application, with modifications, of the provisions of the 2001 Regulations

<i>Column 1</i> <i>Provisions of the 2001 Regulations</i>	<i>Column 2</i> <i>Modifications</i>
Regulation 3(2)	<p>As if for paragraphs (a), (b) and (c) there were substituted the following:–</p> <ul style="list-style-type: none"> “(a) the prospective adopter has made an application in terms of regulation 3 of the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003; (b) the prospective adopter has provided such information to the adoption agency as it may request in order to enable it to undertake an assessment of the prospective adopter’s eligibility and suitability to be an adoptive parent; (c) the prospective adopter has received notification in writing of a decision by an adoption agency to approve the prospective adopter as suitable to be an adoptive parent; and (d) the prospective adopter has received notification in writing from the Central Authority in terms of regulation 10(7) of the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 that an agreement under Article 17(c) of the Convention has been made”
Regulations 3(3), 3(4) and 4	As if regulations 3(3) and (4) and 4 were omitted

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the 1993 Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption that was concluded at The Hague on 29th May 1993.

Part 1 provides for commencement, application and interpretation (regulations 1 and 2).

Part 2 makes provision in respect of the requirements, procedures, recognition and effect of adoptions in Scotland where the United Kingdom is the receiving State. Part 2 applies where the prospective adopters are habitually resident in the British Islands and they wish to adopt a child who is habitually resident in another Contracting State.

Regulations 3 to 5 make provision regarding the application for determination of eligibility and suitability to be an adoptive parent, the requirements for eligibility and the provision of information to the prospective adopter.

Regulations 6 to 9 provides for the assessment of suitability of the prospective adopter, the procedure to be followed (including the setting up of a case record, police checks and the provision of counselling) and the notification of the decision.

Regulation 10 sets out the procedures to be followed before the central authorities of the receiving state and the state of origin can make an agreement under Article 17(c) of the Convention in respect of the adoption. An Article 17(c) agreement must be made before the child can travel to the receiving state to be with the prospective adopter.

Regulation 11 requires the adoption agency to notify certain other agencies of the proposed adoption placement before the arrival of the child in Scotland.

Regulations 13 to 18 make provision in respect of the case where a child arrives in Scotland but no Convention adoption has been made. In particular, these regulations impose certain duties and obligations on each of the local authority and the prospective adopter where the adoption placement breaks down. Regulation 19 makes provision regarding the procedure to be followed following the making of a Convention adoption order or a Convention adoption. Regulation 20 requires the child to be handed over to the local authority in circumstances where a court refuses to make a Convention adoption order or the application for the order is withdrawn. Regulation 21 makes provision in respect of the annulment of a Convention adoption order or a Convention order.

Part 3 makes provision in respect of requirements and procedures to be followed in Scotland where the United Kingdom is the State of origin. Part 3 applies where a child, habitually resident in Scotland, is to be adopted by prospective adopters who are habitually resident in another Contracting State.

Regulations 22 and 23 impose duties on an adoption agency and an adoption panel in respect of the assessment of a child as being suitable for intercountry adoption. Regulation 24 provides for the making and notification of decisions, the duties of the adoption panel and the making of the local authority decision in respect of the placement of the child. Regulation 25 sets out the procedure to be followed once the Article 15 report is received. The Article 15 report is sent by the central authority of the receiving state. It gives details of approved prospective adopters in that state who wish to adopt a child from Scotland.

Regulation 27 sets out the requirements in respect of the Article 16 report and the procedure to be followed in the preparation and completion of that report. The Article 16 report is prepared by the local authority in Scotland giving details of the child who might be suitable to be adopted by the prospective adopters named in the Article 15 report. Regulations 28 and 29 respectively prescribe the requirements for the purposes of making a Convention adoption order and the procedural requirements following a Convention adoption order or Convention adoption.

Part 4 makes certain miscellaneous provisions.

Regulation 30 prescribes the requirements which must be met for the purposes of making a Convention adoption order.

Regulations 31 and 32 provide for the modification of the Adoption (Scotland) Act 1978 and the Adoption Agencies (Scotland) Regulations 1996. Regulation 33 provides for the modification of the Adoption of Children from Overseas (Scotland) Regulations 2001.

Regulation 34 makes it an offence where a person contravenes or fails to comply with regulation 13 (notification to local authority), regulation 16(2) (surrender of child to local authority), regulation 16(4) (surrender of child as ordered by the court) and regulation 20 (surrender of the child to the local authority where a Convention adoption order refused or withdrawn).

Regulation 35 makes transitional provisions.

2003 No. 19

CHILDREN AND YOUNG PERSONS

**The Intercountry Adoption (Hague Convention) (Scotland)
Regulations 2003**

£4.50

© Crown Copyright 2003

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
200 01/03 19593

