
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the various functions of adoption agencies under the Adoption and Children (Scotland) Act 2007 (“the Act”). Adoption agencies are registered adoption services and local authorities.

Part 2 makes provision for the establishment of adoption panels whose functions are specified in regulation 6. Regulations 3 and 4 make provision for the constitution, composition and meetings of the adoption panel whilst regulation 5 prescribes the appointment of medical and legal advisers.

Part 3 provides for the duties of adoption agencies in the assessment of prospective adopters (regulation 7) and their approval (regulation 8). Regulations 9, 10 and 11 provide a system for review of such approval.

Part 4 concerns the functions of adoption agencies when adoption is being considered for a child. Regulation 13 prescribes the time within which a decision must be made following a recommendation made by the adoption panel and the requirement to take account of the panel’s recommendation and to give reasons where the decision is contrary to that recommendation. Paragraphs (4) to (6) apply where the child is subject to a supervision requirement under the Children (Scotland) Act 1995.

Regulations 16 and 18 prescribe the information which must be provided and the steps which must be taken when a decision is made that adoption is in the child’s best interests and arrangements should be made for adoption (regulation 16) or an application for a permanence order with authority for the child to be adopted should be made (regulation 18). Where adoption is not the way forward for the child the adoption agency must take such steps as it considers to be appropriate and in the child’s best interests (regulation 15(1)). Where the adoption agency decides that a permanence order with authority for adoption should be sought it must, if it is a registered adoption service, refer the case to the local authority (regulation 15(2)).

Part 5 makes provision for consent certificates and, in particular, the consent requirements for the purposes of section 20(1)(b) of the Act (regulation 19) and the circumstances under which an adoption agency which is a local authority shall determine to proceed as though parental consent is not forthcoming (regulation 20).

Part 6 prescribes the circumstances where an application for a permanence order with authority for the child to be adopted must be made. Where that child is subject to a supervision requirement regulations 22 and 23 prescribe the circumstances under which a referral must be made to the Principal Reporter of the children’s hearing or notification of the adoption agency decision to make an application for a permanence order with authority for the child to be adopted.

Part 7 makes provision for the placing of a child for adoption when a decision has been made that a prospective adopter is suitable to be an adoptive parent and that person would be a suitable adoptive parent for a particular child. Regulation 26 creates a requirement for review of the child’s case where a permanence order with authority to adopt has been granted but the child has not been placed for adoption.

Part 8 makes provision concerning the information which an adoption agency must keep in relation to adoptions and the form and manner in which such information must be kept.