

## SCHEDULE 2

Regulation 16(2)(a)

### MEMORANDUM

#### ADOPTION OF CHILDREN

This memorandum is addressed to the parent or guardian of a child for whom an adoption application is to be made. This includes the father and mother of a child even though they do not have parental responsibilities or rights in relation to the child. If any part of this memorandum is not clear to you, you should consult the adoption agency (which may be a local authority social work department or a registered adoption service). You may seek advice from the adoption agency on any matter connected with the adoption of your child, and may also wish to consult your solicitors. This memorandum is intended for guidance only and is not to be regarded as an authoritative interpretation of the law.

1. If the court makes an adoption order, your responsibilities and rights (including financial obligations) as a parent or guardian will be transferred to the adopters and they will become in law your child's parents. You will then have no further right to see your child, unless voluntary contact is agreed by the adopters. You may however apply to the court for a contact order although leave of the court to make the application must be granted. You will cease to be the child's parent and will have no right to have your child returned to you.

2. If you wish your child to be brought up in a particular religious faith or have any other views on the upbringing of your child which you wish to be taken into account you should inform the adoption agency. The adoption agency is obliged, however, to make the welfare of the child its paramount consideration.

3. The adoption agency needs to know whether each of the child's parents or guardian agrees with its decision that the child should be adopted. You are asked to complete a certificate (which is enclosed) indicating whether you agree or disagree with the adoption agency's decision. Agreement is sought in relation to the adoption agency's decision, and is quite separate from the agreement required by a court (see paragraph 6) in any subsequent application. You should read the certificate carefully, complete Part A or Part B and return it to the adoption agency within 28 days of receipt. This should provide you with sufficient time to take legal advice should you wish to do so. If you agree with the adoption agency's decision, then the adoption agency will make arrangements to have your child adopted. If you do not agree with the adoption agency's decision or do not reply within the 28 days then the agency, if it decides to proceed, will make an application to the court to have the matter resolved – the timescales depend on your child's circumstances, and the adoption agency or your solicitor will be able to advise you of how long this will take. In the event of an adoption application not being possible or appropriate within the timescale required for an application to be made, the adoption agency will apply to the court for a permanence order with authority for your child to be adopted without any further parental involvement. The adoption agency can provide you with further information on this order.

4. If you sign the form of agreement to the agency's decision and your child is subsequently placed with a person wishing to adopt them, then you will not be entitled to have your child returned to you if you change your mind, unless you obtain the permission of the court or the adoption agency. If you do change your mind you should inform the adoption agency at once.

5. Once your child is placed with adopters, they then have to apply to a court for an adoption order. Before making an order, the court will require to know whether you (except where you are a father or mother of the child who does not have parental responsibilities and rights unless these have been removed by a permanence order which does not grant authority for your child to be adopted) and any other parent or guardian of the child freely and in full understanding of what is involved, agree unconditionally to your child being adopted. The court will also have enquiries made to check that it will be in the best interests of your child that they should be adopted by the proposed adopters.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

6. After the adoption application is made to the court, 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. The adoption agency arranging the adoption will explain the reasons for this and will be glad to give you information about the personal circumstances and interests of the proposed adopters and to answer your questions about them as far as possible. Do not sign the form of agreement unless you are willing that your child should be adopted.

7. The court cannot make an adoption order without your agreement unless it dispenses with your agreement on certain grounds or if you are a parent who does not have parental rights and responsibilities unless these were removed by virtue of a permanence order which does not grant authority for the child to be adopted. The grounds on which a court can dispense with a parent's agreement are that:–

- (a) the parent or guardian is dead;
- (b) the parent or guardian cannot be found, or is incapable of giving agreement;
- (c) the court is of the opinion that the parent or guardian is unable satisfactorily to discharge parental rights and responsibilities in relation to the child (except the responsibility and the right to maintain personal relations and direct contact with the child on a regular basis) and is likely to continue to be able to do so;
- (d) where a permanence order (which does not include authority for adoption) has been made which removes the parental rights and responsibilities from the parents or guardian and it is unlikely that such responsibilities will be imposed on, or rights given to the parent or guardian;
- (e) if sub-paragraphs (c) and (d) do not apply the welfare of the child requires the consent to be dispensed with.

8. You are not allowed to receive any money for giving your agreement.

9. When an adoption order is made, the Registrar General for Scotland makes an entry in the Adopted Children Register showing the adopters as the parents of your child. A full extract and an abbreviated certificate of the entry in that Register (which takes the place of your 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 your child reaches the age of 16, they will be entitled to see the original entry in the birth register and to purchase a certificate of entry if they so wish. This means that when your child is 16 they will be able to find out their original name as well as your name and your address when you registered the birth. Should you wish, the adoption agency will discuss with you the implications this may have for you in the future.