

## SCHEDULE

### SHERIFF COURT ADOPTION RULES 2009

## CHAPTER 2

### ADOPTION ORDERS

#### **Application for adoption order**

**8.**—(1) An application for an adoption order under section 29 (adoption by certain couples) or 30 (adoption by one person) of the 2007 Act is to be made by petition in Form 1.

(2) An application for an order vesting parental responsibilities and parental rights relating to a child under section 59(1) of the 2007 Act (preliminary order where child to be adopted abroad) is to be made by petition in Form 2.

(3) The following documents must be lodged in process along with a petition under paragraph (1) or (2):—

- (a) an extract of the entry in the Register of Births relating to the child who is the subject of the application;
- (b) in the case of an application under section 29 of the 2007 Act by a relevant couple who are married to each other, an extract or a certified copy of the entry in the Register of Marriages relating to their marriage;
- (c) in the case of an application under section 29 of the 2007 Act by a relevant couple who are civil partners of each other, an extract or a certified copy of the entry in the Register of Civil Partnerships relating to their civil partnership;
- (d) any report by the local authority required by section 19(2) (investigation by local authority on receipt of notice of intention to apply for adoption order) of the 2007 Act, if available;
- (e) any report by an adoption agency required by section 17 (report on the suitability of the applicants and other matters) of the 2007 Act, if available;
- (f) where appropriate, an extract of the order freeing the child for adoption;
- (g) where appropriate, an extract of the permanence order made in respect of the child under section 80 of the 2007 Act;
- (h) where appropriate, the consent under section 19(1) (placing children with parental consent: England and Wales) of the 2002 Act of each parent or guardian to the child being placed for adoption, in the form prescribed under section 52(7) of that Act, if available;
- (i) where appropriate, the consent under section 20(1) (advance consent to adoption: England and Wales) of the 2002 Act of each parent or guardian to the making of a future adoption order, in the form prescribed under section 52(7) of that Act, if available;
- (j) any notice given under section 20(4) (notice that information about application for adoption order not required: England and Wales) of the 2002 Act by a parent or guardian of the child to an adoption agency, if available;
- (k) a certified copy of any placement order made under section 21(1) (placement orders: England and Wales) of the 2002 Act, if available; and
- (l) any other document founded upon by the petitioner in support of the terms of the petition.

(4) A report by a local authority under section 19(2) or an adoption agency under section 17 of the 2007 Act must be in numbered paragraphs and include the following matters:—

- (a) information about how the needs of the child came to the notice of the authority or agency;

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- (b) the family circumstances of the child;
- (c) where the child was placed for adoption by an adoption agency, a description of the physical and mental health of the child (including any special needs) and his emotional, behavioural and educational development;
- (d) an account of the discussion with the parents or guardians of the child and, if appropriate, with the child about their wishes and the alternatives to adoption;
- (e) the position of other relatives or persons likely to be involved;
- (f) an account of any search for a parent or guardian who cannot be found;
- (g) information about the mutual suitability of the petitioner and the child for the relationship created by adoption and the ability of the petitioner to bring up the child including an assessment of the personality of the petitioner and, where appropriate, that of the child;
- (h) particulars of all members of the household of the petitioner and their relationship to the petitioner;
- (i) a description of the accommodation in the home of the petitioner;
- (j) in a petition by only one member of a relevant couple within the meaning of section 29(3) of the 2007 Act, why the other member of that couple has not joined in the application;
- (k) whether the petitioner understands the nature and effect of an adoption order and in particular that the order, if made, will make the petitioner responsible for the maintenance and upbringing of the child;
- (l) whether the means and standing of the petitioner are such as to enable him to maintain and bring up the child suitably;
- (m) whether the child has any right or interest in property and, if so, what right or interest;
- (n) whether any payment or other reward in consideration of the adoption, other than an approved adoption allowance, has been received or agreed upon;
- (o) what insurance has been offered on the life of the child;
- (p) the religious persuasion, racial origin and cultural and linguistic background of the child and of the petitioner;
- (q) consideration arising from the difference in age between the petitioner and the child if this is more or less than the normal difference in age between parents and children;
- (r) whether adoption is likely to safeguard and promote the welfare of the child throughout his life;
- (s) whether the child is subject to a supervision requirement and, if so, what steps have been taken to comply with section 73(4)(c), (5) and (13) (duration and review of supervision requirement) of the 1995 Act;
- (t) where paragraph (5) applies, the information mentioned in paragraph (6);
- (u) whether there has been a contravention of section 75 of the 2007 Act in relation to the child;
- (v) whether there has been a failure to comply with section 76(2) of the 2007 Act in relation to the child;
- (w) any other matters relevant to the operation of section 14 of the 2007 Act in relation to the application;
- (x) where appropriate, information about whether—
  - (i) in an application under section 29(1) of the 2007 Act, the petitioners are a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act; or
  - (ii) in an application under section 30(1) of the 2007 Act, the petitioner is a member of a relevant couple within the meaning of section 29(3)(c) or (d) of the 2007 Act;

- (y) in the case of a petition under paragraph (2) to which regulation 50 of the 2009 Regulations applies, the details referred to in paragraph (7);
  - (z) any other information which may be of assistance to the court.
- (5) This paragraph applies where—
- (a) the child was placed for adoption under section 19(1) (placement with parental consent: England and Wales) of the 2002 Act;
  - (b) the child was placed for adoption under a placement order made under section 21(1) (placement orders: England and Wales) of the 2002 Act; or
  - (c) each parent or guardian has consented under section 20(1) (advance consent to adoption: England and Wales) of the 2002 Act to the making of a future adoption order.
- (6) The information referred to in paragraph (4)(t) is any available information about whether—
- (a) any placement order has been revoked;
  - (b) any of the consents referred to in section 31(8) or (9) of the 2007 Act have at any time been withdrawn;
  - (c) a parent or guardian of the child wishes to seek leave to oppose the petition; and
  - (d) there has been any change of circumstances since the consent of the parent or guardian was given or, as the case may be, the order under section 21(1) (placement orders: England and Wales) of the 2002 Act was made.
- (7) The details mentioned in paragraph (4)(y) are—
- (a) details of any reviews carried out under regulation 10 of the Adoption Agencies (Scotland) Regulations 2009(1); and
  - (b) details of any visits carried out under regulation 25(1)(a) of those Regulations.
- (8) If a report mentioned in paragraph (3)(d) or (e) is unavailable to be lodged along with the petition, the sheriff shall pronounce an interlocutor requiring the adoption agency or local authority concerned to prepare and lodge such a report within 2 weeks from the date of the interlocutor, or within such other period as the sheriff in his discretion may allow.
- (9) If any of the documents required to be lodged in process under paragraph (3)(f), (g), (h), (i), (j) or (k) is unavailable to be lodged by reason of its being in the possession of an adoption agency, the sheriff shall pronounce an interlocutor requiring the agency to lodge the document within 4 weeks from the date of the interlocutor, or within such other period as the sheriff in his discretion may allow.
- (10) A petition under this rule must include a crave for warrant for intimation to the persons mentioned in rule 14(1)(b) to (d) as appropriate.

#### **Additional requirements where child to be adopted abroad**

**9.—(1)** The additional requirements in this Rule apply to a petitioner in an application for an order under section 59 of the 2007 Act.

(2) In the case of an application to which regulation 7 of the 2009 Regulations applies, the petitioner must lodge in process along with the petition—

- (a) the confirmation required under regulation 7(3)(a)(i) of the 2009 Regulations;
- (b) the documents mentioned in regulation 8 of the 2009 Regulations;
- (c) copies of the confirmations to the adoption agency referred to in regulation 7(3)(b)(i), (iii) and (iv) of the 2009 Regulations;
- (d) a copy of the report mentioned in regulation 7(3)(b)(ii) of the 2009 Regulations;

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- (e) a copy of the confirmation to the adoption agency referred to in regulation 7(3)(c) or (d), as the case may be, of the 2009 Regulations.
- (3) In the case of an application to which regulation 50 of the 2009 Regulations applies, the petitioner must lodge along with the petition the reports, confirmations and other documents referred to in regulation 50(3)(a) to (d), (f) and (g) of those Regulations or, where appropriate, copies thereof.
- (4) Where appropriate, the petitioner must also lodge in process a translation into English of any document referred to in paragraph (2) or (3) together with the certificate referred to in paragraph (5).
- (5) The certificate mentioned in paragraph (4) is a certificate by the translator—
  - (a) certifying that the translation is in conformity with the original document; and
  - (b) giving the full name, address and qualifications of the translator.
- (6) The petitioner must adduce evidence of the law of adoption in the country or territory in which it is intended to adopt to the child.
- (7) The evidence of the law of adoption required under paragraph (6) may be in the form of an affidavit by a person who is conversant with that law and who—
  - (a) practises or has practised law in that country or territory; or
  - (b) is a duly accredited representative of the government of that country or territory in the United Kingdom.

#### **Protection of identity of petitioner**

**10.**—(1) When any person who proposes to apply under rule 8 wishes to prevent his identity being disclosed to any person whose consent to the order is required, he may before presenting the petition apply by letter to the sheriff clerk for a serial number to be assigned to him for all purposes connected with the petition.

- (2) On receipt of an application under paragraph (1), the sheriff clerk must—
  - (a) assign a serial number to the applicant; and
  - (b) enter a note of the number opposite the name of the applicant in a register of serial numbers.
- (3) The contents of the register of serial numbers and the names of the persons to whom each number relates shall be treated as confidential by the sheriff clerk and are to not be disclosed to any person other than the sheriff.
- (4) Where a serial number has been assigned to an applicant under paragraph (2) any form of consent to an adoption order or order under section 59 of the 2007 Act—
  - (a) must refer to the applicant by means of the serial number assigned to him;
  - (b) must not contain the name and designation of the applicant; and
  - (c) must specify the year in which and the court by which the serial number was assigned.

#### **Appointment of a curator *ad litem* and reporting officer**

**11.**—(1) The sheriff must on the lodging of a petition under rule 8 appoint a curator *ad litem* and reporting officer.

- (2) But, subject to paragraph (3), the sheriff must not appoint a reporting officer where one or more of the following applies—
  - (a) an order freeing the child for adoption has been made;
  - (b) a permanence order with provision granting authority for the child to be adopted has been granted under section 80 of the 2007 Act;

- (c) the petition is founded on one or other or both of section 31(8) (advance consent to adopt) or (9) (placement of child: England and Wales) of the 2007 Act.
- (3) Notwithstanding paragraph (2), a reporting officer must be appointed—
  - (a) in any case in which the petition is founded on the condition in section 31(2) of the 2007 Act, whether or not it is also founded on section 31(8) or (9) of that Act; or
  - (b) where the child who is the subject of the application is aged 12 or over, for the purpose of witnessing that child’s consent, if it is to be executed in Scotland.
- (4) The same person may be appointed as curator *ad litem* and reporting officer in the same petition if the sheriff considers that doing so is appropriate in the circumstances.
- (5) The sheriff may appoint a person who is not a member of a panel established under regulations made by virtue of section 101 of the 1995 Act to be curator *ad litem* or a reporting officer.
- (6) The sheriff may, on cause shown, appoint a reporting officer prior to the lodging of such a petition.
- (7) An application for an appointment under paragraph (6) is to be made by letter addressed to the sheriff clerk specifying the reasons for the appointment, and shall not require to be intimated to any other person.
- (8) The sheriff clerk must intimate the appointment of a curator *ad litem* and reporting officer under paragraph (1) or (6) to the petitioner and to the person or persons appointed.

#### **Duties of reporting officer and curator *ad litem***

- 12.**—(1) The other duties of a reporting officer appointed under rule 11, other than under rule 11(3)(b), prescribed for the purposes of section 108(1)(b) of the 2007 Act are—
- (a) to ascertain the whereabouts of all persons whose consent to the making of an adoption order or order under section 59 of the 2007 Act in respect of the child is required;
  - (b) to ascertain whether there is any person other than those mentioned in the petition upon whom notice of the petition should be served;
  - (c) in the case of each person who is not a petitioner and whose consent to the making of an adoption order or order under section 59 of the 2007 Act is required or may be dispensed with—
    - (i) to ascertain whether that person understands the effect of the adoption order or order under section 59 of the 2007 Act;
    - (ii) to ascertain whether alternatives to adoption have been discussed with that person;
    - (iii) to confirm that that person understands that he may withdraw his consent at any time before an order is made;
    - (iv) to ascertain whether that person suffers or appears to suffer from a mental disorder within the meaning of section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003(2);
  - (d) to report in writing on the matters mentioned in subparagraphs (a) to (c) to the sheriff within 4 weeks from the date of the interlocutor appointing the reporting officer, or within such other period as the sheriff in his discretion may allow.
- (2) References in paragraph (1) to “consent” are to consent within the meaning of section 31(2) (a) or 32(1) of the 2007 Act, as the case may be.
- (3) A curator *ad litem* appointed under rule 11 must—
- (a) have regard to safeguarding the interests of the child as his paramount duty;

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- (b) inquire, so far as he considers necessary, into the facts and circumstances stated in the petition and in the report mentioned in rule 8(4);
- (c) obtain particulars of accommodation in the home of the petitioner and the condition of the home;
- (d) obtain particulars of all members of the household of the petitioner and their relationship to the petitioner;
- (e) in the case of a petition by only one member of a relevant couple within the meaning of section 29(3) of the 2007 Act, ascertain the reason of the other member of the couple for not joining in the application;
- (f) ascertain whether the means and status of the petitioner are sufficient to enable him to maintain and bring up the child suitably;
- (g) ascertain what rights or interest in property the child has;
- (h) establish that the petitioner understands the nature and effect of an adoption order and in particular that the making of the order will render him responsible for the maintenance and upbringing of the child;
- (i) where appropriate, ascertain when the mother of the child ceased to have the care and possession of the child and to whom care and possession was then transferred;
- (j) ascertain whether any payment or other reward in consideration of the adoption has been given or agreed upon;
- (k) ascertain whether the child is subject to a supervision requirement under section 70 of the 1995 Act;
- (l) ascertain whether the life of the child has been insured and if so for what sum;
- (m) ascertain whether it may be in the interests of the welfare of the child that the sheriff should make the adoption order or order under section 59 of the 2007 Act subject to particular terms and conditions or require the petitioner to make special provision for the child and, if so, what provision;
- (n) where the petitioner is not ordinarily resident in the United Kingdom, establish whether a report has been obtained on the home and living conditions of the petitioner from a suitable agency in the country in which he is ordinarily resident;
- (o) establish the reasons of the petitioner for wishing to adopt the child;
- (p) establish the religious persuasion, racial origin and cultural and linguistic background of the child and of the petitioner;
- (q) assess the considerations which might arise where the difference in ages as between the petitioner and the child is greater or less than the normal difference in age between parents and their children;
- (r) consider such other matters, including the personality of the petitioner and, where appropriate, that of the child, which might affect the suitability of the petitioner and the child for the relationship created by adoption and affect the ability of the petitioner to bring up the child;
- (s) ascertain whether it would be better for the child that the court should make the order than it should not make the order;
- (t) establish whether the adoption is likely to safeguard and promote the welfare of the child throughout his life;
- (u) ascertain from the child whether he wishes to express a view and, where a child indicates his wish to express a view, ascertain that view.

(4) Subject to paragraph (5) the curator *ad litem* must report in writing on the matters mentioned in paragraph (3) to the sheriff within 4 weeks from the date of the interlocutor appointing the curator, or within such other period as the sheriff in his discretion may allow.

(5) Subject to any order made by the sheriff under rule 17(1)(a), the views of the child ascertained in terms of paragraph (3)(u) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

### Consents

**13.**—(1) The consent of a parent or guardian required by section 31(2)(a) of the 2007 Act is to be in Form 3.

(2) The consent of a child required by section 32(1) of the 2007 Act is to be in Form 4.

(3) A form of consent mentioned in paragraph (1) or (2) must be witnessed—

- (a) where it is executed in Scotland, by the reporting officer appointed under rule 11;
- (b) where it is executed outwith Scotland but within the United Kingdom, by a justice of the peace or commissioner for oaths;
- (c) where it is executed outwith the United Kingdom—
  - (i) if the person who executes the consent is serving in Her Majesty’s forces, by an officer holding a commission in any of those forces; or
  - (ii) in any other case, by a British diplomatic or consular official or any person authorised to administer an oath or affirmation under the law of the place where the consent is executed.

### Intimation of application

**14.**—(1) On the lodging of a petition under rule 8—

- (a) the sheriff clerk must fix a date for a preliminary hearing not less than 6 and not more than 8 weeks after the date of lodging the petition;
- (b) in the case of a petition under rule 8(1), the petitioner or, where a serial number has been assigned under rule 10, the sheriff clerk, must send a copy of the petition along with a notice of intimation in Form 5 to—
  - (i) every person who can be found and whose consent to the making of the order is required to be given or dispensed with under the 2007 Act;
  - (ii) if no such person can be found, a relative of the child within the meaning of section 119(1) of the 2007 Act, unless the address of such a relative is not known to the petitioner and cannot reasonably be ascertained;
  - (iii) every person who has consented to the making of the order under section 20 of the 2002 Act (and has not withdrawn the consent) unless the person has given a notice under subsection (4)(a) of that section which has effect; and
  - (iv) every person who, if leave were given under section 31(12) of the 2007 Act, would be entitled to oppose the making of the order;
- (c) in the case of a petition under rule 8(2) the petitioner or, where a serial number has been assigned under rule 10, the sheriff clerk must send a copy of the petition along with a notice of intimation in Form 5 to every person who can be found and whose consent to the making of the order would be required if the application were for an adoption order (other than a Convention adoption order);
- (d) in the case of a petition under rule 8(1) the petitioner or, where a serial number has been assigned under rule 10, the sheriff clerk must send a copy of the petition along with a notice

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- of intimation in Form 6 to the father of the child if he does not have, and has never had, parental responsibilities or parental rights in relation to the child and if he can be found;
- (e) the sheriff clerk must intimate the date of the preliminary hearing to the curator *ad litem* and to any reporting officer appointed by the sheriff under rule 11;
  - (f) the sheriff may order the petitioner or, where a serial number has been assigned under rule 10, the sheriff clerk to intimate the application to such other person and in such terms as he considers appropriate.
- (2) A notice of intimation under paragraph (1)(b) or (c) must state—
- (a) that an application for adoption has been made;
  - (b) the date on which, and place where, the preliminary hearing will be held;
  - (c) the fact that the person is entitled to be heard on the application;
  - (d) the fact that, unless the person wishes, or the court requires, the person need not attend the hearing.
- (3) A notice of intimation under paragraph (1)(d) must state the matters mentioned in paragraph (2)(a) and (b).
- (4) The sheriff clerk or petitioner on making intimation shall complete a certificate of intimation in Form 7.

### **Orders for intimation**

**15.** In any application for an adoption order or for an order under section 59 of the 2007 Act, the sheriff may at any time order intimation to be made in such terms as he considers appropriate on any person who in his opinion ought to be given notice of the application.

### **Form of response**

- 16.—**(1) Any person who has received intimation of an application by virtue of rule 14 or 15 and who intends to oppose that application shall lodge a form of response in Form 8 not later than 21 days after the date of intimation of the application or such other period as the sheriff may direct.
- (2) A form of response under paragraph (1) must contain a brief statement of the respondent's reasons for opposing the application but shall be without prejudice to any answers lodged under rule 18(1)(b)(iv).

### **Procedure where child wishes to express a view**

- 17.—**(1) Where a child has indicated his wish to express his views the sheriff, without prejudice to rule 12(3)(u)—
- (a) may order such procedural steps to be taken as he considers appropriate to ascertain the views of that child; and
  - (b) must not make an order under this Chapter unless an opportunity has been given for the views of that child to be obtained or heard.
- (2) Where the views of a child, whether obtained under this rule or under rule 12(3)(u) have been recorded in writing, the sheriff may direct that such a written record is to—
- (a) be sealed in an envelope marked “Views of the child – confidential”;
  - (b) be available to a sheriff only;
  - (c) not be opened by any person other than a sheriff; and
  - (d) not form a borrowable part of the process.



### **Preliminary hearing**

- 18.**—(1) At the preliminary hearing the sheriff must—
- (a) if no form of response has been lodged under rule 16, dispose of the case or make such other order as he considers appropriate;
  - (b) if a form of response has been lodged—
    - (i) ascertain from the parties the anticipated length of any proof that may be required;
    - (ii) fix a diet of proof not less than 12 and not more than 16 weeks after the date of the preliminary hearing or any continuation thereof unless, on cause shown, a longer period is appropriate;
    - (iii) fix a pre-proof hearing not less than 2 and not more than 6 weeks before the diet of proof; and
    - (iv) order answers and any other documents to be lodged within 21 days of the date of the preliminary hearing or any continuation thereof or such other period as he considers appropriate.
- (2) The sheriff may, on cause shown, of his own motion or on the motion of any party, allow a continuation of the preliminary hearing on one occasion only for a period not exceeding 4 weeks.
- (3) At the preliminary hearing the sheriff may—
- (a) if he is not satisfied that the facts stated in the petition are supported by the documents lodged with it or by the reports of the curator *ad litem* and reporting officer order the production of further documents; and
  - (b) make such other order as he considers appropriate for the expeditious progress of the case.
- (4) The answers lodged under paragraph (1)(b)(iv) must be in numbered paragraphs corresponding to the numbered paragraphs of the report mentioned in rule 8(4).

### **Pre-proof hearing**

- 19.**—(1) The parties must provide the sheriff with sufficient information to enable him to conduct the hearing as provided for in this rule.
- (2) At the pre-proof hearing the sheriff must ascertain, so far as is reasonably practicable, whether the case is likely to proceed to proof on the date fixed for that purpose and, in particular, the sheriff must consider—
- (a) the state of preparation of the parties;
  - (b) the extent to which the parties have complied with any orders made by the sheriff under rule 18.
- (3) At the pre-proof hearing the sheriff may—
- (a) discharge the proof and fix a new date for such proof;
  - (b) adjourn the pre-proof hearing;
  - (c) order the lodging of joint minutes of agreement, affidavits, expert reports and any other documents within such period as he considers appropriate;
  - (d) make such other order as he thinks fit to secure the expeditious progress of the case.

### **Proof to be taken continuously**

- 20.** A proof shall be taken continuously so far as possible, but the sheriff may adjourn the diet from time to time.

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### **Confidentiality**

**21.**—(1) Unless the sheriff otherwise directs, all documents lodged in process including the reports by the curator *ad litem* and reporting officer are to be available only to the sheriff, the curator *ad litem*, the reporting officer and the parties; and such documents must be treated as confidential by any persons involved in, or a party to, the proceedings and by the sheriff clerk.

(2) The reporting officer and the curator *ad litem*—

- (a) must treat all information obtained in the exercise of their duties as confidential; and
- (b) must not disclose any such information to any person unless disclosure of such information is necessary for the purpose of their duties.

(3) This rule is subject to rule 17.

### **Pronouncement of decision**

**22.**—(1) At the conclusion of the proof the sheriff may—

- (a) pronounce a decision; or
- (b) reserve judgment.

(2) If the sheriff pronounces his decision at the end of the proof, he—

- (a) must state briefly the grounds of his decision, including the reasons for his decision on any questions of fact or law or of admissibility of evidence; and
- (b) may, and if requested to do so by one of the parties must, append to the interlocutor a note setting out those matters and his findings in fact and law.

(3) If the sheriff pronounces his decision after reserving judgment, he must give to the sheriff clerk within 4 weeks of the conclusion of the proof—

- (a) an interlocutor giving effect to his decision and incorporating findings in fact and law; and
- (b) a note setting out the matters mentioned in paragraph (2)(a).

(4) The sheriff clerk must forthwith send copies of the documents mentioned in paragraph (2) or (3) to each of the parties.

(5) The sheriff principal may extend the period mentioned in paragraph (3) for such further period as he considers reasonable.

(6) Where the sheriff reserves his decision—

- (a) the date of the interlocutor of the sheriff shall be the date on which it is received by the sheriff clerk; and
- (b) the sheriff clerk shall enter that date in the interlocutor.

(7) If the question of expenses has been reserved the sheriff must deal with that issue within 21 days of the date of the interlocutor disposing of the merits of the application.

(8) In any case in which a serial number has been assigned to the petitioner under rule 10 or where the sheriff so directs, any document issued under this rule shall not disclose the identity of the petitioner.

### **Communication to the Registrar General**

**23.** The communication to the Registrar General of an adoption order required to be made by the sheriff clerk under paragraph 4(1) of Schedule 1 to the 2007 Act is to be made by sending a certified copy of the order to the Registrar General either by recorded delivery post in an envelope marked “Confidential”, or by personal delivery by the sheriff clerk in a sealed envelope marked “Confidential”.

### **Adoption orders**

**24.**—(1) An adoption order granted by the sheriff must specify the name and address of the adoption agency, if any, which has taken part in the arrangements for placing the child in the care of the petitioner.

(2) No extract of an adoption order is to be issued except with the authority of the sheriff who made the order or, in that sheriff's absence, the sheriff principal.

(3) The authority required by paragraph (2) is to be obtained by lodging a petition setting forth the reasons for which the extract is required.

### **Final procedure**

**25.**—(1) After the granting of an adoption order or order under section 59 of the 2007 Act, the court process must, immediately upon the communication under rule 23 being made or, in the event of an extract of the order being issued under rule 24, immediately upon such issue, be sealed by the sheriff clerk in an envelope marked "Confidential".

(2) The envelope referred to in paragraph (1) is not to be unsealed by the sheriff clerk or by any other person having control of the records of that or any court, and the process is not to be made accessible to any person for one hundred years after the date of the granting of the order except—

- (a) to an adopted child who has attained the age of 16 and to whose adoption the process refers;
- (b) to the sheriff clerk, on an application being made to him by an adoption agency, and with the consent of the adopted person for the purpose only of ascertaining the name of the agency, if any, responsible for the placement of that person and informing the applicant of that name;
- (c) to a person on the granting of an application made by him to the sheriff setting forth the reason for which access to the process is required;
- (d) to a court, public authority or administrative board (whether in the United Kingdom or not) having power to authorise an adoption, on petition by it to the court which granted the original order requesting that information be made available from the process for the purpose of discharging its duties in considering an application for adoption and specifying the precise reason for which access to the process is required;
- (e) to a person who is authorised by the Scottish Ministers to obtain information for the purposes of such research as is intended to improve the working of adoption law and practice.

(3) The sheriff clerk must—

- (a) where the court also makes an order under section 36(2) (revocation of supervision requirement) of the 2007 Act, intimate that order to the Principal Reporter; and
- (b) where appropriate, intimate the making of an adoption order or order under section 59 of the 2007 Act to the court by which—
  - (i) an order freeing the child for adoption was made; or
  - (ii) a permanence order with provision granting authority for the child to be adopted was made.

### **Amendment of an adoption order**

**26.**—(1) An application under paragraph 7 of Schedule 1 to the 2007 Act (amendment of orders and rectification of registers) is to be made by petition to the court which made the adoption order.

(2) The sheriff may order the petitioner to intimate the petition to such persons as the sheriff considers appropriate.

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

#### **Applications under sections 20 to 24**

27.—(1) An application under section 20(2) (restrictions on removal: child placed for adoption with consent), section 21(3) (restrictions on removal: notice of intention to adopt given), 22(3) (restrictions on removal: application for adoption order pending), 23(3) (restrictions on removal of child looked after by local authority), 24(1) (return of child removed in breach of certain provisions) or 24(2) (order directing person not to remove child) of the 2007 Act shall be made—

- (a) if there is pending in respect of the child an application for an adoption order, by minute in the process of that application; or
- (b) in any other case, by petition.

(2) A minute or petition under paragraph (1) shall set out the relevant facts and the crave which the minuter or petitioner, as the case may be, wishes to make.

(3) On receipt of a minute under paragraph (1)(a) the sheriff shall—

- (a) order a diet of hearing to be fixed; and
- (b) ordain the minuter to send a notice of such hearing in Form 9 together with a copy of the minute, by recorded delivery letter to the petitioner in the original petition, to the curator *ad litem* in the original petition, to any person who may have care and possession of the child and to such other persons as the sheriff considers appropriate.

(4) On receipt of a petition under paragraph (1)(b) the sheriff shall—

- (a) order a diet of hearing to be fixed; and
- (b) ordain the petitioner to send a notice of such hearing in Form 9 together with a copy of the petition, by recorded delivery letter to any person who may have care and possession of the child and to such other persons as the sheriff considers appropriate.

(5) The sheriff may, on the motion of a party and on cause shown, remit any petition lodged under paragraph (1)(b) to another sheriff court.

(6) On the making of an order under paragraph (5) the sheriff—

- (a) must state his reasons for doing so in the interlocutor;
- (b) may make such other order as he thinks fit.

(7) The court to which a petition is transferred under paragraph (5) shall accept the petition.

(8) A petition transferred under paragraph (5) shall proceed in all respects as if it had been brought in the court to which it is transferred.